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AN ORDINANCE TO AMEND THE CITY OF DAWSONVILLE'S CODE ON
DILAPIDATED BUILDINGS; TO PROVIDE FOR PREMISES MAINTENANCE; AND
FOR OTHER PURPOSES

WHEREAS, the City of Dawsonville duly adopted a Dilapidated Building Ordinance which is codified at §18-81 through §18-93 of the Dawsonville Code; and **WHEREAS**, the City desires to amend its existing Dilapidated Building Ordinance to incorporate premises maintenance, provide clarification of the prior ordinance, update the ordinance to modern state building codes, and coordinate the ordinance with current zoning and land use ordinances.

NOW THEREFORE, THE COUNCIL OF THE CITY OF DAWSONVILLE,
GEORGIA HEREBY ORDAINS AS FOLLOWS:

Article IV, Dilapidated Buildings §18-81 through §18-93 is hereby amended by deleting the same in its entirety and replacing it with a new Article IV, Dilapidated Structures and Premises Maintenance §18-81 through §18-96 as follows:

ARTICLE IV, DILAPIDATED STRUCTURES AND PREMISES MAINTENANCE

§18-81. Purpose and Policy.

The purpose of this Ordinance is to establish certain minimum standards for the maintenance of premises and structures in order to promote and protect the public health, safety, convenience, order, and general welfare of the citizens of the City. The policy of the City is to prohibit dilapidated structures and to require adequate premises maintenance as set forth hereinafter.

§18-82. Scope.

This Ordinance shall apply to all existing structures and premises and shall

constitute minimum standards for the maintenance of such structures and premises. This Ordinance shall be in addition to all other State and local minimum standards for construction.

§18-83. Definitions.

Terms not specifically defined in this Ordinance shall have their meaning as defined in the City of Dawsonville's Zoning Ordinance, Development Regulations, or in the absence of such definition, then words shall have their common dictionary definition.

Bathroom means any room within a structure containing plumbing facilities including, at a minimum, a toilet, a sink, and a shower or bathtub.

Building Code means all existing and current State and City of Dawsonville minimum standards for construction.

City means the City of Dawsonville, Georgia.

Closing means securing a dwelling, building, or structure from access or entry for the purpose of vacating the dwelling, building or structure.

Dilapidated structure means any building or structure that is unsafe, unsanitary or deteriorated in condition characterized by neglect, non-use, excessive use or misuse, or lack of maintenance. Any structure that is unfit for human habitation or for commercial, industrial, or business use shall be deemed dilapidated.

Junk means waste, secondhand, worn, or discard articles, including but not limited to scattered or disordered things that impede movement and/or damage the aesthetic quality of a structure or premises by their presence.

Mayor and Council means the Mayor and Council of the City of Dawsonville, Georgia.

Owner means the person, corporation, or other legal entity, its successors or assigns, having ownership interest in a structure or premises.

Parties in interest means persons in possession of a structure or premises and all individuals, associations, and corporations who have interest of record in the county where the structure or premises is located in said structure or premises, including executors, administrators, guardians and trustees.

Premises means any parcel of real property within the scope of this Ordinance that lies within the geographical limits of the City.

Rubbish, litter, or debris means combustible and incombustible waste materials except garbage; and the term shall include but not be limited to the residue from the burning

of materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Structure means any building, dwelling 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 and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design.

§18-84. Open Storage.

There shall be no open storage of appliances, building materials, rubbish, inoperable vehicles, junk, or garbage on any premises for any period of time in excess of ten (10) days. Any such storage shall be closed to the public by screening, solid fencing or other material approved by the Director that both prevents viewing from the street and prevents physical access by children or others who might walk onto the property. Open storage of building materials is allowed in excess of ten (10) days if the Owner has a current building permit and the storage is necessary for the renovation or addition to a structure on the same premises. No open storage of any kind shall be allowed that amounts to a public nuisance, or that presents a danger to the health, safety and welfare of the citizens of the City.

§18-85. Maintenance of Structures.

- (a) Exterior surfaces. All exterior surfaces and materials of structures, including doors, door and window frames, cornices, porches, and trim, shall be maintained in good order and repair. Exterior surfaces shall be protected from decay and water damage.
- (b) Exterior Walls. Exterior walls shall be maintained free from holes, breaks, and loose or rotting materials in order to prevent deterioration and water damage.
- (c) Roofs. Roofs of structures shall be maintained so that they are structurally sound, in safe condition, and have no material defects that might contribute to substantial water damage. Roofs shall be complete with such materials and elements, such as trim, eaves, soffits, flashing or other materials, as are proper common building practices.
- (d) Exterior stairways, porches, decks and balconies. Exterior stairways, porches, decks, and balconies shall be maintained so that they are structurally sound, are in good order and repair and capable of supporting the applicable load capacities.
- (e) The Director shall have the discretion and authority to waive or impose the regulations of this Ordinance as appropriate for all structures officially designated as Historical Properties, pursuant to the Dawsonville Historical Property Ordinance, to the extent that doing such furthers the purposes

and provisions set forth in the Historical Property Ordinance.

§18-86. Occupancy and Use of Structures.

Residential. No residential structure that is deemed dilapidated may be used or occupied for any purpose. No residential structure or room within a residential structure shall be occupied by persons such that overcrowding presents a material threat to the public health or safety. Any occupancy of a residential structure in excess of five (5) persons per bathroom shall be considered overcrowded. No structure or room within a structure shall be leased or rented by the day or any portion of a day other than duly authorized and permitted hotels and motels.

Commercial/Industrial. No commercial or industrial structure that is deemed dilapidated may be used or occupied for any purpose.

§ 18-87. Nuisances

- (a) Nothing in this Ordinance shall preclude the City from determining that conditions of a structure or premises constitute a nuisance, nor preclude the City from taking any appropriate measures in accordance with the law to abate a nuisance.
- (b) The following conditions may be declared a nuisance when it is determined that any one of such conditions endangers the health, welfare, or good order of the community:
 - (1) Stagnant water on premises;
 - (2) Any dead or decaying matter, weeds, vegetation, or any fruit, vegetable, animal, or rodent upon premises which is odorous or capable of causing disease or annoyance to the inhabitants of the city;
 - (3) The continuous generation of smoke or fumes in sufficient amounts for more than 24 hours to cause odor or annoyance to the inhabitants of the city;
 - (4) The pollution of public water or injection of matter into the sewerage system which would be damaging thereto;
 - (5) Maintaining a dangerous or diseased animal or fowl;
 - (6) Obstruction of a public street, highway, or sidewalk without a permit;
 - (7) All walls, trees, and buildings that may endanger persons or

premises;

- (8) Any business or building where illegal activities are habitually and commonly conducted in such a manner as to reasonably suggest that the owner or operator of the business or building was aware of the illegal activities and failed to take appropriate measures to prevent the activities;
 - (9) Unused iceboxes, refrigerators, and the like, unless the doors, latches, or locks thereof are removed, as well as unused, abandoned, or discarded containers with a capacity of at least 12 cubic feet;
 - (10) Use by the owner or occupant of a residential structure, or premises for the open storage of any junked motor vehicle, glass, building material, building rubbish, or similar items. For the purpose of this paragraph, "junked motor vehicle" is defined as a motor vehicle that is in a state of disrepair and incapable of being moved under its own power;
- (c) Any one or more of the following conditions shall be and is hereby declared a nuisance:
- (1) Obstruction of any public watercourse or waterway;
 - (2) Pollution of any public watercourse or waterway;
 - (3) Uncovered piles of garbage or refuse of any kind;
 - (4) Buried garbage or refuse of any kind;
 - (5) Infestation by rats and vermin;
 - (6) Accumulation on any premises of debris, objects, materials, or a condition which may constitute a health, accident, or fire hazard, or which creates a blighting or deteriorating effect in the city; and
 - (7) Any other condition constituting a nuisance under state law.
- (d) When a condition is found and determined by the Director to constitute a nuisance, the Director shall serve a notice to abate the nuisance upon the owner and all parties in interest of the premises or structure, in accordance with the procedures set for in §18-91.

§ 18-88. Nuisances per se; emergency Conditions.

Nothing contained in this ordinance shall prevent the Director or the Mayor and Council from summarily and without notice ordering the abatement of or abating any nuisance that is a nuisance per se under the law or where the case is an urgent one and the health or safety of the public or a portion thereof is in imminent danger. This Ordinance shall be supplemental to the City's authority and all applicable laws relating to the defining and/or abating a public nuisance.

§ 18-89. Collection of costs to abate a nuisance.

When any person ordered to do any work for the purpose of abating a nuisance has failed or refused to do that work, and the work has been done by the city, the cost thereof shall constitute a lien against the real property that shall be collected in accordance with §18-85 of this Ordinance.

§18-90. Enforcement Officer and Duties.

The Director of the Planning and Zoning Department or his designee, hereinafter the "Director," shall administer and enforce the provisions of this article and is hereby appointed to exercise the powers prescribed by this Ordinance. The Director shall have the right to enter upon the premises and enter such structures for the purpose of conducting investigations and inspection to carry out the purposes of this Ordinance. The Director shall show proper identification and shall provide advance notice of such inspections to parties in interest and owners if possible.

§18-91. Enforcement Procedure.

- (a) Whenever a request is filed with the City by a public authority or by at least five residents of the municipality charging a violation of this ordinance, or whenever it appears to the Director by his own observation that any premises or structure violates the terms of this Ordinance, the Director shall conduct a preliminary investigation of such charges. If the preliminary investigation discloses an emergency situation or a nuisance per se (§18-88), the Director may take immediate action to resolve the situation or abate the nuisance and the cost of same shall constitute a lien as set forth hereinbelow. If the investigation discloses a basis for such charges (but is not an emergency or nuisance per se), then the Director shall provide written notice of the violation by hand delivery or via U.S. Mail to the owner and any parties in interest of the premises or structure at their last known address, or if none, at the address listed on the records of the Dawson County Tax Commissioner for the premises or structure at issue. The written notice provided by the Director shall contain a description of the specific violation charged, and shall include a copy of this Ordinance.
- (b) Upon receipt of the written notice of violation, the owner and any party of

interest of the structure or premises shall have five (5) days from the date of the written notice to object in writing to the alleged violation. If no objection is received by the City within five (5) days, the violation shall be deemed proven, the structure or premises declared in violation, and action taken as set forth herein below. If an objection is received by the City within five (5) days, the objection shall be reviewed by the Director and if upon review the Director determines no violation has been proven, the notice of violation shall be dismissed. However, if despite review of the objection the Director determines a violation has been proven, the structure or premises shall be declared in violation and action taken as set forth herein below.

- (c) If the violation is deemed proven, the Director shall issue and serve by hand delivery or via U. S. Mail the owner and any party of interest an Administrative Order. Except in the case of a violation of §18-87 or §18-88, the Administrative Order shall allow the owner of the premises or structure up to ninety (90) days to cure the violation before any fine is assessed pursuant to sub-section d) below. The Administrative Order shall be issued according to the following criteria:

(1) *Violations Concerning Structures:*

- i) If the repair, alteration, or improvement of a structure can be made at a reasonable cost in relation to the value of the structure, the Administrative Order shall require the owner or parties in interest to repair, alter, or improve the structure so as to render it fit for human habitation or for current commercial, industrial, or business use within a specified time as is reasonable to accomplish the repair, alteration or improvement. Or, in the alternative, the Administrative Order may allow the owner or parties in interest to vacate and close the structure to all human habitation, commercial, industrial or business use; or
- ii) If the repair, alteration, or improvement of such structure cannot be made at a reasonable cost in relation to the value of the structure, the Administrative Order shall require the owner or parties in interest to remove or demolish such structure within a reasonable specified time. In no event shall the Administrative Order require removal or demolition of any structure except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half the value the structure will have when repaired.

- (2) *Violations Concerning Premises:* When the violation concerns the repair, alteration, or improvement of premises, the Administrative Order shall require the owner or parties in interest to repair, alter, or

improve the premises so as to render it fit for its current residential, commercial, industrial or business use. Or, in the alternative, the Administrative Order may allow the owner or parties in interest to vacate and close the premises to all human habitation, commercial, industrial or business use.

(d) If the owner or parties in interest fail to comply with an Administrative Order to repair, alter, improve, vacate, close or demolish such structure or premises in accordance with the Administrative Order:

(1) The Director may assess a fine not to exceed \$250.00 per day and serve notice of the fine upon the owner and parties in interest of such premises or structure. Each day that a violation continues after due notice has been served shall be deemed a separate offense, provided that the Director shall have the discretion to provide an extension of time to cure any violations in the event that the Director determines such an extension is necessary and appropriate in light of the specific circumstances of such violation. Any fines associated with a violation of this Ordinance remaining unpaid shall constitute a lien on the real property of the subject premises or structure, and shall be collected pursuant to the process and procedures set forth in subsection 3), below.

(2) In addition to the fine set forth in sub-paragraph 1), the Mayor and Council may cause such structure or premises to be repaired, altered, or improved or be vacated and closed or demolished in accordance with the Administrative Order. The Director shall post on the main entrance of any structure so closed a placard with the following words:

"This structure/premises is unfit for human habitation or commercial, industrial, or business use; the use or occupation of this structure/premises for human habitation or for commercial, industrial, or business use is prohibited and unlawful."

(3) In the event the Mayor and Council cause a structure or premises to be repaired, altered, improved, or to be vacated and closed or demolished, the cost of such action along with any assessed fines shall be a lien against the real property upon which such cost was incurred. Such lien shall attach to the real property upon the payment of the aforementioned costs by the City. The City shall file a statement of lien on the real estate records of Dawson County and cross-reference the same against the owner's deed. The City may enforce the collection of any amount due on such lien for fines, alteration, repair, removal, or demolition of structures or premises in the same manner as provided in O.C.G.A. § 48-14-361 and other applicable

state statutes. This procedure shall be subject to the right of redemption by any person having any right, title, or interest in or lien upon such real property, all as provided by O.C.G.A. title 48, chapter 4, Article 3, as the same may be amended from time to time.

- (4) The remedies contained in this Ordinance are not intended to be the sole remedies available to the City. The City may pursue any available legal or equitable remedies to abate, enjoin, prevent or remove any activity in violation of this Ordinance.

§ 18-92. Appeal.

Any person receiving an Administrative Order regarding a violation of this Ordinance may appeal such Administrative Order or complaint to the Mayor for a hearing and determination of whether such Administrative Order was issued in accordance with the purposes of this Ordinance. The person appealing the Administrative Order shall submit a written petition to the Mayor describing the reasons that the Administrative Order was improper. Upon receiving such a petition, the Mayor shall conduct a public hearing following reasonable notice at the earliest possible time, but no later than ten days after receiving the petition of appeal. At the appeal hearing, the Director shall present the Administrative Order along with any relevant information, documents or testimony and petitioner shall present the appeal along with any relevant information, documents or testimony. The city clerk shall provide notice of the time and date of the hearing to the petitioner and shall cause the time, date and purpose of the hearing to be posted at City Hall at least 24 hours in advance of the hearing. The decision of the Mayor regarding any Administrative Order shall be deemed a final decision by the City of Dawsonville on such matter. Jurisdiction for any subsequent appeal of the Mayor's decision shall lie in the City Court of Dawsonville.

§18-93. Authority to use revenues, grants, and donations to repair, close, or demolish dilapidated 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 the provisions of this Ordinance and the exercise of the powers granted hereunder.

§18-94. Construction of this article with the Municipal Charter and other laws, ordinances and regulations.

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 its Charter or its ordinances or regulations, 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.

§ 18-95. Repeal Of Conflicting Ordinances.

All ordinances and resolutions and parts thereof in conflict herewith are repealed.

§ 18-96. Effective Date.

These regulations shall take effect and be in force from and after adoption, the public welfare demanding it.

SO ADOPTED by the City Council of Dawsonville, Georgia, this 11th day of July, 2005.

CITY OF DAWSONVILLE

Joe Lane Cox, Mayor

Jonathan Cox, Council Member

Mike Sosebee, Council Member

Mike Wilson, Council Member

Tim Wimpey, Council Member

Attested to by City Clerk:

Kim Cornelison