



April 03, 2012 9:00 a.m..

1. Call to Order by Mayor Joe Brannen
2. Invocation and Pledge of Allegiance by Councilman Gary Lewis
3. Recognitions/Public Presentations
 - A) Proclamation presented to Bill Anderson , Rodeo Chairman of the Statesboro Kiwanis Rodeo on behalf of the Statesboro Kiwanis Club
 - B) Employee of the Month, Flavia Blair, Human Resources Coordinator, HR Department
 - C) Lamar Thigpen, Retirement, 10 years of service, Public Works, Streets Division
 - D) City of Statesboro received the Distinguished Budget Presentation Award for 2011
4. Public Comments (Agenda Item):
5. Consideration of a Motion to approve the Consent Agenda
 - A) Approval of Minutes
 - a) Council Minutes of March 21, 2012
 - B) Consideration of a Motion to adopt **Resolution 2012-05**: A Resolution declaring Georgia Cities Week for April 22-28, 2012.
 - C) Consideration of a Motion to approve 2nd reading of **Ordinance 2012-04**: An Ordinance amending Article II (Nuisances) of Chapter 38 (Environment) of the Code of Ordinances of the City of Statesboro, Georgia in its entirety.
 - D) Consideration of a Motion to approve 2nd reading for the restated (GMEBS) Georgia Municipal Employees Benefit System Master Defined Benefit Retirement Master Plan and Adoption Agreement
6. Other Business from City Council
7. Consideration of a Motion to Adjourn

STATE OF GEORGIA
City of Statesboro

WHEREAS, the Kiwanis Club of Statesboro held its First Annual Rodeo in Statesboro, GA at the Kiwanis Ogeechee Fairgrounds in April of 2011; and

WHEREAS, the Kiwanis Club's First Annual Rodeo was a very successful event, providing unique family entertainment to the community and raising funds that the Kiwanis Club uses to support various community organizations and projects; and

WHEREAS, the Kiwanis Club will hold its Second Annual Rodeo on April 27th and April 28th of 2012, which is anticipated to be even larger and more successful than the first Rodeo in April of 2011; and

WHEREAS, the Statesboro City Council wishes to offer its support and congratulations to the Kiwanis Club of Statesboro for this unique and successful event by proclaiming the week of April 22nd through April 28th of 2012 as "Rodeo Days" in Statesboro, Georgia;

NOW THEREFORE, in recognition of the Kiwanis Club of Statesboro's Second Annual Rodeo, the Statesboro City Council hereby proclaims the week of April 22nd through April 28th of 2012 to be "Rodeo Days" in Statesboro, Georgia.

SO PROCLAIMED this 3rd day of April, 2012.

By: _____
Joe Brannen, Mayor

By: _____
Will Britt, (Mayor Pro Tem)
3rd District Councilman

By: _____
Tommy Blich, 1st District Councilman

By: _____
Gary Lewis, 2nd District Councilman

By: _____
John Riggs, 4th District Councilman

By: _____
Travis Chance, 5th District Councilman

Attest: _____
Sue Starling, City Clerk



**CITY OF STATESBORO
CITY COUNCIL MINUTES
March 21, 2012**

A regular meeting of the Statesboro City Council was held on March 21, 2012 at 6:00 p.m. in the Council Chambers at City Hall. Present were Mayor Joe R. Brannen, Council Members: Tommy Blitch, John Riggs, Gary Lewis and Travis Chance. Also present were City Manager Frank Parker, City Clerk Sue Starling, City Attorney Alvin Leaphart, City Engineer Robert Cheshire, and Director of Community Development Mandi Cody. Councilman Will Britt was absent.

Consideration of a Motion to approve the Consent Agenda

- A) Approval of Minutes**
 - a) March 06, 2012 Council Minutes**
 - b) March 06, Work Session Minutes**
- B) Consideration of a Motion to approve a six month variance extension for the following cases:**
 - a) APPLICATION # V 11-07-03: Progress Builders LLC requests a variance from Section 703 of the *Statesboro Zoning Ordinance* to increase the density to 29 dwelling units per acre for property located at 816 South Main Street.**
 - b) APPLICATION # V 11-07-04: Progress Builders LLC requests a variance from Section 702 of the *Statesboro Zoning Ordinance* to construct a building with maximum height of 55 feet for property located at 816 South Main Street.**
- C) Consideration of a Motion to approve 1st reading for the restated (GMEBS) Georgia Municipal Employees Benefit System Master Defined Benefit Retirement Master Plan and Adoption Agreement**
- D) Consideration of a Motion to approve Resolution 2012-03: A Resolution authorizing the transfer of lot #8, 319 Proctor Street in Statesboro Pointe subdivision to the Statesboro-Bulloch County Land bank authority for sale to Habitat for Humanity of Bulloch County, Inc. for \$5000.00**

Councilman Chance made a motion, seconded by Councilman Riggs to approve the Consent Agenda in its entirety. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Public Hearing and Consideration of a Motion to approve 1st reading of Ordinance 2012-04: An Ordinance amending Article II (Nuisances) of Chapter 38 (Environment) of the Code of Ordinances of the City of Statesboro, Georgia in its entirety.

Councilman Blitch made a motion, seconded by Councilman Chance to approve 1st reading of Ordinance 2012-04: An Ordinance amending Article II (Nuisances) of Chapter 38 (Environment)

of the Code of Ordinances of the City of Statesboro, Georgia in its entirety. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Consideration of a Motion to Approve Professional Engineering Services Contract with Wolverton Associates in the amount of \$48,493.00 to perform a traffic study, and develop alternative concepts and costs estimates for Intersection Improvements at Fair Rd. (SR 67) and S. Zetterower Ave./ Tillman Rd. Traffic study will include area bounded by US 301S, Brannen St., S. Zetterower Ave. and Tillman Rd.

Councilman Riggs made a motion, seconded by Councilman Blitch to Approve Professional Engineering Services Contract with Wolverton Associates in the amount of \$48,493.00 to perform a traffic study, and develop alternative concepts and costs estimates for Intersection Improvements at Fair Rd. (SR 67) and S. Zetterower Ave./ Tillman Rd. Traffic study will include area bounded by US 301S, Brannen St., S. Zetterower Ave. and Tillman Rd.

Consideration of a Motion to authorize City Manager Frank Parker to approve the proposal of Hussey, Gay, Bell & DeYoung Inc. to provide the Engineering and Design Services for the WWTP effluent filter upgrades

Councilman Blitch made a motion, seconded by Councilman Lewis to authorize City Manager Frank Parker to approve the proposal of Hussey, Gay, Bell & DeYoung Inc. to provide the Engineering and Design Services for the WWTP effluent filter upgrades. Councilman Blitch, Riggs and Lewis voted in favor of the motion. Councilman Chance voted against the motion. The motion carried by a 3-1 vote.

Consideration of a Motion to approve a change order for the Lakeview Road Water/Sewer Extension in the amount of \$100,382.88

Councilman Blitch made a motion, seconded by Councilman Lewis to approve a change order for the Lakeview Road Water/Sewer Extension in the amount of \$100,382.88. Councilman Blitch, Riggs and Lewis voted in favor of the motion. Councilman Chance voted against the motion. The motion carried by a 3-1 vote.

Other Business from City Council

City Manager Frank Parker stated the Arts Council was offered a grant from the Fox Theatre Institute in the amount of \$30,000.00. Mr. Parker asked Mayor and Council to match the \$30,000.00 if the Fox Theatre grant is awarded to the Arts Council. The grant would be used to restore part of the attached building behind City Campus on East Main St. Councilman Lewis made a motion, seconded by Councilman Riggs to authorize the payment of \$30,000.00 to the Arts Council if the grant is awarded from Fox Theatre. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

City Manager asked Council to enter into an Executive Session at 6:35 p.m. to discuss potential land acquisition. Councilman Chance made a motion, seconded by Councilman Lewis to enter into Executive Session to discuss potential land acquisition with a 10 minute break. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Councilman Riggs made a motion, seconded by Councilman Chance to come out of executive session at 6:45 p.m. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Director of Community Development Mandi Cody asked Council to approve a partnership with GSU and the Bureau of Business Research Economic Development for the submittal of a grant application to the US Department of Commerce for a University Center partnership and a matching fund commitment in the amount of \$200,000.00 per year for a 5 year period. Dr. Dominique Halaby Director of the Bureau of Business Research and Economic Development spoke in favor of the partnership. Councilman Lewis made a motion, seconded by Councilman Riggs to authorize the Mayor to approve a resolution to this effect for submittal with GSU's grant application by the March 31, 2012 deadline. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Councilman Chance made a motion, seconded by Councilman Riggs to enter into executive session to discuss potential land acquisition at 6:55 p.m. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Councilman Riggs made a motion, seconded by Councilman Lewis to come out of executive session at 7:15 p.m. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote.

Mayor Brannen called the regular session back to order at 7:16 p.m. with no action being taken.

Consideration of a Motion to Adjourn

Councilman Riggs made a motion, seconded by Councilman Chance to adjourn. Councilman Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 4-0 vote. The meeting was adjourned at 7:16 p.m.

RESOLUTION 2012-05
"GEORGIA CITIES WEEK"
April 22-28, 2012

A RESOLUTION OF THE City of Statesboro recognizing "GEORGIA CITIES WEEK", April 22-28, 2012, and encouraging all citizens to support the celebration and corresponding activities.

WHEREAS, City government is the closest to most citizens, and the one with the most direct daily impact upon its residents; and

WHEREAS, city government is administered for and by its citizens, and is dependent upon public commitment to and understanding of its many responsibilities; and

WHEREAS, city government officials and employees share the responsibility to pass along their understanding of public services and their benefits; and

WHEREAS, "GEORGIA CITIES WEEK" is a very important time to recognize the important role played by city government in our lives; and

WHEREAS, this week offers an important opportunity to spread the word to all the citizens of Georgia that they can shape and influence this branch of government which is closest to the people; and

WHEREAS, the Georgia Municipal Association and its member cities have joined together to teach students and other citizens about municipal government through a variety of different projects and information; and

WHEREAS, "GEORGIA CITIES WEEK" offers an important opportunity to convey to all citizens of Georgia that they can shape and influence government through their civic involvement.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY OF STATESBORO DECLARES APRIL 22-28, 2012 AS CITY GOVERNMENT WEEK.

BE IT FURTHER RESOLVED THAT THE CITY OF STATESBORO ENCOURAGES ALL CITIZENS, CITY GOVERNMENT OFFICIALS AND EMPLOYEES TO DO EVERYTHING POSSIBLE TO ENSURE THAT THIS WEEK IS RECOGNIZED AND CELEBRATED ACCORDINGLY.

PASSED AND ADOPTED by the City of Statesboro this 3th day of April, 2012.

Mayor and Council of Statesboro

By: _____
Joe R. Brannen, Mayor

Attest _____
Sue Starling, City Clerk

Ordinance 2012-04

WHEREAS, the City Council has previously adopted an Ordinance regarding Nuisances;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Statesboro, Georgia in regular session assembled as follows:

That Article II (Nuisances) of Chapter 38 (Environment) of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by replacing it in its entirety.

Approved and Adopted by the Mayor and Council of the City of Statesboro at a regular meeting of the Mayor and Council on ____ of _____, 2012.

First reading 03-21-2012

Second Reading 04-03-2012

City of Statesboro, Georgia

Joe R. Brannen, Mayor

Sue Starling, City Clerk

ARTICLE II. NUISANCES

Sec. 38-26. - Definitions.

Sec. 38-27. - Jurisdiction.

Sec. 38-28. - Standard for determination of nuisances.

Sec. 38-29. - Procedure for abatement of nuisances; service.

Sec. 38-30. - Procedure for hearings; findings by court; abatement.

Sec. 38-31. - Temporary injunction restraining Public Officer from carrying out provisions.

Sec. 38-32. - Appeal.

Sec. 38-33. - Eminent domain.

Sec. 38-34. - Additional penalties for failure to comply with orders of Municipal Court judge and city ordinance.

Sec. 38-35 - Use of revenues, grants and donations to repair, close or demolish unfit dwellings, building or structures.

Sec. 38-36. - Applicability of chapter.

Sec. 38-26. - Definitions.

The following definitions shall apply in the enforcement and application of this chapter:

(1) *Applicable codes* means:

a. Any optional housing or abatement standard provided in O.C.G.A. 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;

b. Any fire or life safety code as provided for in O.C.G.A. tit. 25, ch. 2; and

c. Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. tit. 8, ch. 2 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those buildings or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

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

(3) *Drug crime* means any act which is a violation of O.C.G.A. § 16-13-20 et seq., commonly referred to as the "Georgia Controlled Substances Act."

(4) *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.

(5) *Governing authority* means the Mayor and Council of the City of Statesboro, Georgia.

(6) *Interested parties* means:

- a. An owner;
- b. Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- c. Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- d. Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the City or records maintained in the Bulloch County Courthouse or by the Bulloch County Clerk of Court. Interested parties shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded, which interest shall remain unaffected; and
- e. Persons in possession of said property and premises.

(7) *Municipal Court* means the Municipal Court of the City of Statesboro, Georgia.

(8) *Nuisance* means any condition which tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners, and morals of the public. For purposes of this chapter, but not limited thereto, 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 are inimical to the welfare and are dangerous and injurious to the health, safety and welfare of the residents of the City, including vacant, dilapidated structures in which drug crimes are being committed, for which a public necessity exists for the repair, closing or demolition of such structures that are declared to be public nuisances. Any private property within the City on which there has been allowed to accumulate weeds, trash, junk, filth and other unsanitary or unsafe conditions, and any private property that allows water to escape and pond, run through or collect on the premises of another, or to collect pond, or run through any of the streets, alleys or other property of the city is hereby declared to be a public health hazard or nuisance to those persons living in the vicinity.

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

(10) *Public Officer* means those officers and employees of the City, Bulloch County or the State of Georgia whose duties include code enforcement and inspections within the City, including, without limitation, the City Marshal, The Director of Public Safety for the City of Statesboro, the City Manager, the Director of Community Development, the Fire Commander for the City of Statesboro, the Bulloch County Fire Chief, the Bulloch County Health Inspector, and the State Fire Marshal.

(11) *Repair* means altering or improving a dwelling, building or structure so as to bring the structure into compliance with the applicable codes of the City 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* means any person residing in the City on or after the date on which the alleged nuisance arose.

Sec. 38-27. - Jurisdiction.

The Municipal Court shall have jurisdiction with to try issues concerning the existence and abatement of public nuisances within the geographical limits of the City in accordance with the provisions of O.C.G.A. § 41-2-5.

Sec. 38-28. - Standard for determination of nuisances.

- (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 of the City or such ordinances that 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 applicable codes.
- (b) A finding of noncompliance of any building, fire, health, sanitation or life safety code, regulations or ordinance now or hereafter adopted by the City shall constitute prima facie evidence that a public nuisance exists. Any written citation served upon an owner by a Public Officer charged with code enforcement shall specify the code section deemed to be violated and state sufficient details to apprise the owner of the basis for the citation.
- (c) Public Officers charged with code enforcement shall have the following powers and duties:
 - (1) To investigate or inspect the conditions existing on any private property within the City to determine which dwelling, building, structure or property are unfit for human habitation; 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; constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; or tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners, and morals of the public.
 - (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 duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter; and
 - (5) To delegate any of his functions and powers under this chapter to his employees as he deems necessary to carry out the purposes of this chapter.
- (d) In addition to specified code violations noticed without limiting the generality of the foregoing, the following conditions are subject to abatement:
 - (1) Defects increasing the hazards of fire, accidents or other calamities, including improper storage of material on the premises;
 - (2) Lack of adequate ventilation, light or sanitary facilities;
 - (3) Dilapidation and disrepair, including those structures which have been damaged by fire, wind or other causes such that 35 percent or more of the external structure and roof have been destroyed or structural members weakened;

(4) Sanitation and general uncleanliness, including improper keeping of pets and animals on the premises, and improper disposal of human and animal waste;

(5) Accumulation of trash, weeds, debris, junk, filth, standing or stagnant water, and other unsafe conditions; and

(6) Vacant, unsecured dwellings, building or structures in which drug crimes have been committed.

(e) The Public Officer may determine that a dwelling, building or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes committed.

Sec. 38-29. - Procedure for abatement of nuisances; service.

(a) A proceeding to abate a public nuisance may be commenced under this chapter by filing a complaint in the name of the City against the respondent in the Municipal Court, specifically setting forth therein the facts of the alleged nuisance. Upon the written petition of five or more residents of the City 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 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 interested parties for such dwelling, building or structure.

(b) 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.

(c) The summons shall notify the interested parties that a hearing will be held before the Municipal Court of the City of Statesboro at a date and time certain. Such hearing shall be held not less than 15 calendar days nor more than 45 calendar days after the filing of said complaint in the proper court.

(d) For service of complaints and orders:

(1) At least 14 calendar days prior to the date of the hearing, the City Manager or his or her designee shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identifies and addresses are reasonably ascertainable or personally serve copies of the complaint upon all interested parties. 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 calendar days prior to the date of the hearing.

(2) 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.

(3) A notice of lis pendens shall be filed in the office of the Bulloch County Superior Court Clerk 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.

(4) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this chapter 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.

(5) In the event the respondent is a minor, an estate or incompetent person, the guardian or other personal representative shall be served in the manner hereinabove provided; however, if such party has no guardian or personal representative, service shall be perfected by personally serving the probate judge of Bulloch County, Georgia, who shall stand in the place of and protect the rights of such person or appoint a guardian ad litem for such person.

Sec. 38-30. - Procedure for hearings; findings by court; abatement.

(a) Whenever a Public Officer finds conditions within the geographical limits of the City that the Public Officer believes constitute a public nuisance as provided in this chapter, the Public Officer shall notify the City Manager, or his or her designee, who may forthwith cause to be filed a complaint in the name of the City seeking to abate the conditions on grounds it constitutes a public nuisance.

(b) At the hearing, the burden shall be upon the City to prove its complaint by competent evidence. The responding party(s) shall have the right to file an answer to the complaint and to appear in person or by counsel, to present evidence and to cross-examine the City's witnesses.

(c) If, after hearing, the court determines that 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, the judge shall state in writing his 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 dwelling, building or structure can be made at 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.

(d) For the purposes of this subsection, the court shall make its determination of "reasonable cost in relation to the present value of the dwelling, building or structure" without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. tit. 43, ch. 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvements of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes of the City relevant to the cited violations of City code.

(e) If the owner fails to comply with an order to repair or demolish the dwelling, building or structure within the time specified therein, the City Manager, or his or her designee, may cause the 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 calendar days after 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 O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 calendar days in which such abatement action must commence. The Public Officer shall cause to be posted on the main entrance of the building, dwelling or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupancy of this building is prohibited and unlawful."

(f) If the City Manager or his or her designee has the structure demolished, then 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 City Manager or his or her designee 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 cost of bringing a complaint pursuant to this chapter, together with any costs reasonably incurred by the City in abatement of a public nuisance after determination thereof by a court of competent jurisdiction, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be in a lien against the real property upon which such cost was incurred. Such lien 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 Bulloch County Superior Court Clerk and shall relate back to the date of the filing of the lis pendens notice. The Bulloch County Superior Court Clerk shall record and index such certified copy of the order in the Bulloch County deed records and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

(h) The City may enforce its lien in the following manner:

(1) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the City Manager or his or her designee shall transmit to the City Clerk a statement of the total amount due and secured by said lien, together with copies of all notice of lis pendens provided to interested parties. The statement of the City Manager or his or her designee shall be transmitted within 90 calendar days of completion of the abatement, repairs, demolition, or closure. It shall be the duty of the City revenue officer who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. tit. 48, ch. 4; provided, however, that the limitation of Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply.

(2) Enforcement of liens pursuant to this chapter may be initiated at any time following receipt by the City Clerk of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this chapter.

(3) The redemption amount in any enforcement proceeding pursuant to this chapter shall be the full amount of the costs as finally determined in accordance with this chapter together with interest, penalties, and costs incurred by the governing authority, county tax commissioner, or City revenue officer in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.

(i) 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 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.

(j) Nothing contained herein shall prevent or prohibit the court from punishing by its contempt powers any owner or parties in interest that willfully fail or refuse to comply with an order entered in accordance with this chapter.

Sec. 38-31. - Temporary injunction restraining Public Officer from carrying out provisions.

As authorized by O.C.G.A. § 41-2-13, any person affected by an order issued by the Public Officer may petition to the superior court for an injunction restraining the Public Officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the Public Officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 calendar days of the posting and service of the order of the Public Officer. De novo hearings shall be had by the court on petitions within 20 calendar days. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Code section.

Sec. 38-32. - Appeal.

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.

Sec. 38-33. - Eminent domain.

Nothing in this chapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state, nor is permitting any property to be condemned or destroyed except in accordance with the police power of this state.

Sec. 38-34. - Additional penalties for failure to comply with orders of Municipal Court judge and city ordinance.

(a) Notwithstanding any other provisions of this chapter to the contrary, the failure of the owner and parties in interest to comply with an order to vacate and close a dwelling, building or structure and clean the premises, or the failure of an owner and parties in interest to comply with an order to remove or demolish a dwelling, building or structure, or failure of an owner and parties in interest to comply with an order to take remedial action necessary to render the dwelling, building or structure fit for human habitation or occupancy, and to comply with the minimum standards set forth in the City's housing code within the time limit set out in such order, shall be deemed to be a separate offense for each day of such failure to comply with such order, and shall subject the owner and parties in interest to a fine of up to \$100.00 per day for each such offense.

(b) Any fine or penalty imposed under this section may be imposed by the Court hearing the case on his own motion at the hearing or as the result of a motion and hearing for such purpose brought by a party to such proceedings. Until paid, any such fine or penalty so imposed shall also constitute a lien against the property which is the subject of the proceedings in favor of the City, and notice of such lien shall be given by the recording of the order in the office of the City Clerk on a lien docket maintained for such purposes and in the deed records of the clerk of the Superior Court of Bulloch County. Upon payment, such lien shall be cancelled of record.

Sec. 38-35 - Use of revenues, grants and donations to repair, close or demolish unfit dwellings, building or structures.

The governing body is authorized to make such appropriations from its revenues as it may deem necessary or appropriate and may accept and apply for and utilize grants or donations to assist it in carrying out the provisions of this chapter.

Sec. 38-36. - Applicability of chapter.

The powers and authority granted hereunder shall be in addition to and supplemental of any other powers and authority granted to the governing body of the City and its agents by any state statute or ordinance of the City; provided, however, that in the event of a conflict between this chapter and the Standard Existing Building Code and/or Standard Unsafe Building Abatement Code, the provisions of this chapter shall apply.

Secs. 38-37—38-65. Reserved.

**GENERAL ADDENDUM TO THE
GEORGIA MUNICIPAL EMPLOYEES BENEFIT SYSTEM
DEFINED BENEFIT RETIREMENT PLAN
ADOPTION AGREEMENT**

This is an Addendum to the Adoption Agreement completed by the City of Statesboro, Georgia, as follows (complete one or more sections, as applicable):

*** Items (1) through (3) of pre-approved Addendum – Not Applicable ***

- (4) Credited Past Service under the Plan for Specified Classes of Employees - (see Section 13 of Adoption Agreement regarding Credited Past Service):

Service performed as a Full-Time Employee prior to February 1, 1973 shall be credited in accordance with the terms of Article III, Section 6 of the pre-existing GMEBS retirement plan document for the City of Statesboro, the terms of which are incorporated herein by reference (See February 1, 1990 Pre-Adoption Agreement Restatement, pp. 22 – 24).

*** Items (5) through (13) of pre-approved Addendum – Not Applicable

- (14) Modified Definition of Final Average Earnings. Final Average Earnings is defined as the annual average of Earnings paid to a Participant by the Adopting Employer for 5 years (12 month periods) of Credited Service preceding the Participant's most recent Termination in which the Participant's Earnings were the highest. The years of Credited Service used for this calculation need not be consecutive. Note: GMEBS has prescribed forms for calculation of Final Average Earnings that must be used for this purpose.

The terms of the foregoing Addendum to the Adoption Agreement are approved by the Mayor and Council of the City of Statesboro, Georgia this _____ day of _____, 20____.

Attest:

CITY OF STATESBORO, GEORGIA

City Clerk

Mayor

(SEAL)

Approved:

City Attorney

The terms of the foregoing Addendum are approved by the Board of Trustees of the Georgia Municipal Employees Benefit System.

IN WITNESS WHEREOF, the Board of Trustees of the Georgia Municipal Employees Benefit System has caused its Seal and the signatures of its duly authorized officers to be affixed this _____ day of _____, 20____.

Board of Trustees
Georgia Municipal Employees
Benefit System

(SEAL)

Secretary

RESOLUTION 2012-05
"GEORGIA CITIES WEEK"
April 22-28, 2012

A RESOLUTION OF THE City of Statesboro recognizing "GEORGIA CITIES WEEK", April 22-28, 2012, and encouraging all citizens to support the celebration and corresponding activities.

WHEREAS, City government is the closest to most citizens, and the one with the most direct daily impact upon its residents; and

WHEREAS, city government is administered for and by its citizens, and is dependent upon public commitment to and understanding of its many responsibilities; and

WHEREAS, city government officials and employees share the responsibility to pass along their understanding of public services and their benefits; and

WHEREAS, "GEORGIA CITIES WEEK" is a very important time to recognize the important role played by city government in our lives; and

WHEREAS, this week offers an important opportunity to spread the word to all the citizens of Georgia that they can shape and influence this branch of government which is closest to the people; and

WHEREAS, the Georgia Municipal Association and its member cities have joined together to teach students and other citizens about municipal government through a variety of different projects and information; and

WHEREAS, "GEORGIA CITIES WEEK" offers an important opportunity to convey to all citizens of Georgia that they can shape and influence government through their civic involvement.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY OF STATESBORO DECLARES APRIL 22-28, 2012 AS CITY GOVERNMENT WEEK.

BE IT FURTHER RESOLVED THAT THE CITY OF STATESBORO ENCOURAGES ALL CITIZENS, CITY GOVERNMENT OFFICIALS AND EMPLOYEES TO DO EVERYTHING POSSIBLE TO ENSURE THAT THIS WEEK IS RECOGNIZED AND CELEBRATED ACCORDINGLY.

PASSED AND ADOPTED by the City of Statesboro this 3th day of April, 2012.



Mayor and Council of Statesboro

By: Joe R. Brannen
Joe R. Brannen, Mayor

Attest: Sue Starling
Sue Starling, City Clerk

Ordinance 2012-04

WHEREAS, the City Council has previously adopted an Ordinance regarding Nuisances;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Statesboro, Georgia in regular session assembled as follows:

That Article II (Nuisances) of Chapter 38 (Environment) of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by replacing it in its entirety.

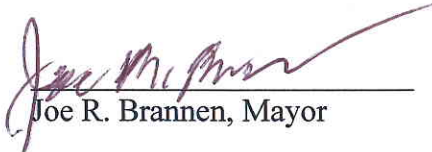
Approved and Adopted by the Mayor and Council of the City of Statesboro at a regular meeting of the Mayor and Council on 3 of April, 2012.

First reading 03-21-2012

Second Reading 04-03-2012

City of Statesboro, Georgia




Joe R. Brannen, Mayor


Sue Starling, City Clerk

ARTICLE II. NUISANCES

Sec. 38-26. - Definitions.

Sec. 38-27. - Jurisdiction.

Sec. 38-28. - Standard for determination of nuisances.

Sec. 38-29. - Procedure for abatement of nuisances; service.

Sec. 38-30. - Procedure for hearings; findings by court; abatement.

Sec. 38-31. - Temporary injunction restraining Public Officer from carrying out provisions.

Sec. 38-32. - Appeal.

Sec. 38-33. - Eminent domain.

Sec. 38-34. - Additional penalties for failure to comply with orders of Municipal Court judge and city ordinance.

Sec. 38-35. - Use of revenues, grants and donations to repair, close or demolish unfit dwellings, building or structures.

Sec. 38-36. - Applicability of chapter.

Sec. 38-26. - Definitions.

The following definitions shall apply in the enforcement and application of this chapter:

(1) *Applicable codes* means:

a. Any optional housing or abatement standard provided in O.C.G.A. 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;

b. Any fire or life safety code as provided for in O.C.G.A. tit. 25, ch. 2; and

c. Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. tit. 8, ch. 2 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those buildings or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

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

(3) *Drug crime* means any act which is a violation of O.C.G.A. § 16-13-20 et seq., commonly referred to as the "Georgia Controlled Substances Act."

(4) *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.

(5) *Governing authority* means the Mayor and Council of the City of Statesboro, Georgia.

(6) *Interested parties* means:

- a. An owner;
- b. Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
- c. Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
- d. Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the City or records maintained in the Bulloch County Courthouse or by the Bulloch County Clerk of Court. Interested parties shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded, which interest shall remain unaffected; and
- e. Persons in possession of said property and premises.

(7) *Municipal Court* means the Municipal Court of the City of Statesboro, Georgia.

(8) *Nuisance* means any condition which tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners, and morals of the public. For purposes of this chapter, but not limited thereto, 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 are inimical to the welfare and are dangerous and injurious to the health, safety and welfare of the residents of the City, including vacant, dilapidated structures in which drug crimes are being committed, for which a public necessity exists for the repair, closing or demolition of such structures that are declared to be public nuisances. Any private property within the City on which there has been allowed to accumulate weeds, trash, junk, filth and other unsanitary or unsafe conditions, and any private property that allows water to escape and pond, run through or collect on the premises of another, or to collect pond, or run through any of the streets, alleys or other property of the city is hereby declared to be a public health hazard or nuisance to those persons living in the vicinity.

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

(10) *Public Officer* means those officers and employees of the City, Bulloch County or the State of Georgia whose duties include code enforcement and inspections within the City, including, without limitation, the City Marshal, The Director of Public Safety for the City of Statesboro, the City Manager, the Director of Community Development, the Fire Commander for the City of Statesboro, the Bulloch County Fire Chief, the Bulloch County Health Inspector, and the State Fire Marshal.

(11) *Repair* means altering or improving a dwelling, building or structure so as to bring the structure into compliance with the applicable codes of the City 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* means any person residing in the City on or after the date on which the alleged nuisance arose.

Sec. 38-27. - Jurisdiction.

The Municipal Court shall have jurisdiction with to try issues concerning the existence and abatement of public nuisances within the geographical limits of the City in accordance with the provisions of O.C.G.A. § 41-2-5.

Sec. 38-28. - Standard for determination of nuisances.

(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 of the City or such ordinances that 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 applicable codes.

(b) A finding of noncompliance of any building, fire, health, sanitation or life safety code, regulations or ordinance now or hereafter adopted by the City shall constitute prima facie evidence that a public nuisance exists. Any written citation served upon an owner by a Public Officer charged with code enforcement shall specify the code section deemed to be violated and state sufficient details to apprise the owner of the basis for the citation.

(c) Public Officers charged with code enforcement shall have the following powers and duties:

(1) To investigate or inspect the conditions existing on any private property within the City to determine which dwelling, building, structure or property are unfit for human habitation; 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; constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; or tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners, and morals of the public.

(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 duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to his employees as he deems necessary to carry out the purposes of this chapter.

(d) In addition to specified code violations noticed without limiting the generality of the foregoing, the following conditions are subject to abatement:

(1) Defects increasing the hazards of fire, accidents or other calamities, including improper storage of material on the premises;

(2) Lack of adequate ventilation, light or sanitary facilities;

(3) Dilapidation and disrepair, including those structures which have been damaged by fire, wind or other causes such that 35 percent or more of the external structure and roof have been destroyed or structural members weakened;

- (4) Sanitation and general uncleanliness, including improper keeping of pets and animals on the premises, and improper disposal of human and animal waste;
 - (5) Accumulation of trash, weeds, debris, junk, filth, standing or stagnant water, and other unsafe conditions; and
 - (6) Vacant, unsecured dwellings, building or structures in which drug crimes have been committed.
- (e) The Public Officer may determine that a dwelling, building or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes committed.

Sec. 38-29. - Procedure for abatement of nuisances; service.

- (a) A proceeding to abate a public nuisance may be commenced under this chapter by filing a complaint in the name of the City against the respondent in the Municipal Court, specifically setting forth therein the facts of the alleged nuisance. Upon the written petition of five or more residents of the City 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 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 interested parties for such dwelling, building or structure.
- (b) 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.
- (c) The summons shall notify the interested parties that a hearing will be held before the Municipal Court of the City of Statesboro at a date and time certain. Such hearing shall be held not less than 15 calendar days nor more than 45 calendar days after the filing of said complaint in the proper court.
- (d) For service of complaints and orders:
- (1) At least 14 calendar days prior to the date of the hearing, the City Manager or his or her designee shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identifies and addresses are reasonably ascertainable or personally serve copies of the complaint upon all interested parties. 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 calendar days prior to the date of the hearing.

(2) 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.

(3) A notice of lis pendens shall be filed in the office of the Bulloch County Superior Court Clerk 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.

(4) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this chapter 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.

(5) In the event the respondent is a minor, an estate or incompetent person, the guardian or other personal representative shall be served in the manner hereinabove provided; however, if such party has no guardian or personal representative, service shall be perfected by personally serving the probate judge of Bulloch County, Georgia, who shall stand in the place of and protect the rights of such person or appoint a guardian ad litem for such person.

Sec. 38-30. - Procedure for hearings; findings by court; abatement.

(a) Whenever a Public Officer finds conditions within the geographical limits of the City that the Public Officer believes constitute a public nuisance as provided in this chapter, the Public Officer shall notify the City Manager, or his or her designee, who may forthwith cause to be filed a complaint in the name of the City seeking to abate the conditions on grounds it constitutes a public nuisance.

(b) At the hearing, the burden shall be upon the City to prove its complaint by competent evidence. The responding party(s) shall have the right to file an answer to the complaint and to appear in person or by counsel, to present evidence and to cross-examine the City's witnesses.

(c) If, after hearing, the court determines that 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, the judge shall state in writing his 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 dwelling, building or structure can be made at 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.

(d) For the purposes of this subsection, the court shall make its determination of "reasonable cost in relation to the present value of the dwelling, building or structure" without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. tit. 43, ch. 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvements of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes of the City relevant to the cited violations of City code.

(e) If the owner fails to comply with an order to repair or demolish the dwelling, building or structure within the time specified therein, the City Manager, or his or her designee, may cause the 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 calendar days after 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 O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 calendar days in which such abatement action must commence. The Public Officer shall cause to be posted on the main entrance of the building, dwelling or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupancy of this building is prohibited and unlawful."

(f) If the City Manager or his or her designee has the structure demolished, then 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 City Manager or his or her designee 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 cost of bringing a complaint pursuant to this chapter, together with any costs reasonably incurred by the City in abatement of a public nuisance after determination thereof by a court of competent jurisdiction, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be in a lien against the real property upon which such cost was incurred. Such lien 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 Bulloch County Superior Court Clerk and shall relate back to the date of the filing of the lis pendens notice. The Bulloch County Superior Court Clerk shall record and index such certified copy of the order in the Bulloch County deed records and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

(h) The City may enforce its lien in the following manner:

(1) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the City Manager or his or her designee shall transmit to the City Clerk a statement of the total amount due and secured by said lien, together with copies of all notice of lis pendens provided to interested parties. The statement of the City Manager or his or her designee shall be transmitted within 90 calendar days of completion of the abatement, repairs, demolition, or closure. It shall be the duty of the City revenue officer who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. tit. 48, ch. 4; provided, however, that the limitation of Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply.

(2) Enforcement of liens pursuant to this chapter may be initiated at any time following receipt by the City Clerk of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this chapter.

(3) The redemption amount in any enforcement proceeding pursuant to this chapter shall be the full amount of the costs as finally determined in accordance with this chapter together with interest, penalties, and costs incurred by the governing authority, county tax commissioner, or City revenue officer in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81.

(i) 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 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.

(j) Nothing contained herein shall prevent or prohibit the court from punishing by its contempt powers any owner or parties in interest that willfully fail or refuse to comply with an order entered in accordance with this chapter.

Sec. 38-31. - Temporary injunction restraining Public Officer from carrying out provisions.

As authorized by O.C.G.A. § 41-2-13, any person affected by an order issued by the Public Officer may petition to the superior court for an injunction restraining the Public Officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the Public Officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 calendar days of the posting and service of the order of the Public Officer. De novo hearings shall be had by the court on petitions within 20 calendar days. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Code section.

Sec. 38-32. - Appeal.

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.

Sec. 38-33. - Eminent domain.

Nothing in this chapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state, nor is permitting any property to be condemned or destroyed except in accordance with the police power of this state.

Sec. 38-34. - Additional penalties for failure to comply with orders of Municipal Court judge and city ordinance.

(a) Notwithstanding any other provisions of this chapter to the contrary, the failure of the owner and parties in interest to comply with an order to vacate and close a dwelling, building or structure and clean the premises, or the failure of an owner and parties in interest to comply with an order to remove or demolish a dwelling, building or structure, or failure of an owner and parties in interest to comply with an order to take remedial action necessary to render the dwelling, building or structure fit for human habitation or occupancy, and to comply with the minimum standards set forth in the City's housing code within the time limit set out in such order, shall be deemed to be a separate offense for each day of such failure to comply with such order, and shall subject the owner and parties in interest to a fine of up to \$100.00 per day for each such offense.

(b) Any fine or penalty imposed under this section may be imposed by the Court hearing the case on his own motion at the hearing or as the result of a motion and hearing for such purpose brought by a party to such proceedings. Until paid, any such fine or penalty so imposed shall also constitute a lien against the property which is the subject of the proceedings in favor of the City, and notice of such lien shall be given by the recording of the order in the office of the City Clerk on a lien docket maintained for such purposes and in the deed records of the clerk of the Superior Court of Bulloch County. Upon payment, such lien shall be cancelled of record.

Sec. 38-35 - Use of revenues, grants and donations to repair, close or demolish unfit dwellings, building or structures.

The governing body is authorized to make such appropriations from its revenues as it may deem necessary or appropriate and may accept and apply for and utilize grants or donations to assist it in carrying out the provisions of this chapter.

Sec. 38-36. - Applicability of chapter.

The powers and authority granted hereunder shall be in addition to and supplemental of any other powers and authority granted to the governing body of the City and its agents by any state statute or ordinance of the City; provided, however, that in the event of a conflict between this chapter and the Standard Existing Building Code and/or Standard Unsafe Building Abatement Code, the provisions of this chapter shall apply.

Secs. 38-37—38-65. Reserved.