

## Chapter 5

### BUILDING, CONSTRUCTION AND RELATED ACTIVITIES\*

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\***Cross references**--Floodplain regulations, Ch. 8; historic preservation, Ch. 9; public safety, Ch. 12; subdivisions, Ch. 17; trees and landscaping, Ch. 20; zoning, Ch. 22.

**State law references**--Governing body may enact standards to determine safety of buildings, Ga. Const., art. 1, sec. 4, par. 1; authority of city or county to provide codes, including building, housing, plumbing, and electrical codes, Ga. Const., art. 9, sec. 2, par. 3(12); providing of fire escapes by building owners, O.C.G.A. § 8-2-50; The Uniform Standards Code for Manufactured Homes Act, O.C.G.A. § 8-2-130 et seq.; The Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings, O.C.G.A. § 8-2-200 et seq.; access to and use of public facilities by physically handicapped persons, O.C.G.A. § 30-3-1 et seq.; authority for municipalities to repair, close or demolish unfit buildings or structures, O.C.G.A. § 41-2-7.

#### Section 5-285A ARTICLE XI. UNFIT BUILDINGS OR STRUCTURES

##### Section 5-286 Findings; policy.

(a) It is found and declared that in the city there exist dwellings, buildings, or structures which are unfit for human habitation for commercial, industrial, or business uses due to dilapidation and defects increasing the hazards of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities; or other conditions rendering such dwellings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the city.

(b) It shall be the policy of the city for its designated officials to investigate and determine which dwellings, buildings or structures in the city are unfit for human habitation or are unfit for their current commercial, industrial, or business use because of existing conditions that are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the city.

(Ord. of 12-22-86(2), § I)

##### Section 5-287 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings

ascribed to them in this section, except where the context clearly indicates a different meaning:

*City manager* means the city manager of the City of Thomasville, Georgia, or his designated agent.

*Dwellings, buildings or structures* means any building or structure or part thereof used and occupied for human habitation, commercial, industrial or business uses, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design.

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

*Parties in interest* means person in possession of such property and all individuals, associations, and corporations who have an interest of record in the county where the property is located in a dwelling, building, or structure, including executors, administrators, guardians, and trustees.

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

*Repair* means closing a dwelling, building, or structure or 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.

*Unfit dwellings, buildings or structures* means:

- (1) Those whose interior or exterior bearing walls or other vertical structural members list, lean or buckle to such extent as to weaken the structural support of such member below the minimum required by the building code of the city; or
- (2) Those which have parts that are so attached that they are likely to fall and cause injury to persons or property; or
- (3) Those which in whole or in part are so dilapidated, decayed, damaged from any cause or deteriorated in any manner that they are likely to cause injury to persons or property; or
- (4) Those which are likely to cause injury to persons or property because they contain weakened, defective or deteriorated:
  - a. Footings or foundations;
  - b. Floorings or floor supports;
  - c. Ceilings or ceiling supports;
  - d. Roof or chimney;
- (5) Those which have visible soil erosion adjacent to or under any structural support; or
- (6) Those which are likely to cause injury to persons or property in the event of catastrophe, windstorm, fire, earthquake or panic because of inadequate stairways, elevators, escalators, fire escapes or other means of egress as required by the building and life safety codes of the city; or
- (7) Those which are likely to cause injury to persons or property because they have defective or inadequate plumbing, improper sanitation facilities, insufficient ventilation, or lack of running water, as required by the building code of the city, or this Code; or
- (8) Those which constitute fire hazards as defined in the life safety code of the city or other applicable ordinances and which are thereby dangerous to persons or property; or
- (9) Those which because of lack of proper maintenance, deterioration or decay, or fire hazards, are unsafe, unsanitary, or dangerous to human life, safety, or health or morals.
- (10) Vacant or dilapidated dwellings, buildings or structures in which drug crimes are being committed. For purposes of this article, a "drug crime" means an act which is a violation of Article 2 of Chapter 13 of Title 16 of the Official Code of Georgia Annotated, known as the Georgia Controlled Substances Act.

(Ord. of 12-22-86(2), § I; Ord. of 3-25-91, § I(7-243.1))

Section 5-288 Procedures relating to repair or demolition of unfit buildings.

(a) The City Manager shall be designated as the public officer to exercise the powers as set forth in this article.

(b) Whenever a request is filed with the City Manager by a public authority or by at least five (5) residents of the City charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use or whenever it appears to the City Manager (on his own motion) that any dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use, the City Manager shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and any parties in interest in such dwelling, building, or structure, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the City Manager at a place within the City fixed not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the City Manager.

(c) If, after such notice and hearing, the City Manager determines that the dwelling, building, or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial, or business use, or is vacant, dilapidated, and being used in connection with the commission of drug crimes, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order as follows:

- (1) If the repair, alteration, or improvement of such dwelling, building or structure can be made at a cost not exceeding fifty (50) percent of the value of the dwelling, building, or structure, when repaired, the order shall require the owner or parties in interest, within the time specified in the order not to exceed one hundred twenty (120) days, to repair, alter, or improve such dwelling, building or structure so as to render it fit for human habitation or for current commercial, industrial, or business use or to vacate and close the dwelling, building, or structure as a human habitation; or
- (2) If the repair, alteration, or improvement of such dwelling, building, or structure cannot be made at a cost not exceeding fifty (50) percent of the value of the dwelling, building, or structure, when repaired, the order shall require the owner or parties in interest, within the time specified in the order, not to exceed one hundred twenty (120) days, to remove or demolish such dwelling, building, or structure.

(d) If the owner or party(ies) in interest fails to comply with an order to repair, alter or improve or vacate and close or remove or demolish the dwelling, building, or structure, the City Manager may cause such dwelling, building or structure to be repaired, altered or improved or to be vacated and closed or removed or demolished, as the City Manager has determined pursuant to paragraph (c), above. The City Manager may cause to be posted on the main entrance of any dwelling, building or structure so closed a placard with the following words:

“This building is unfit for human habitation or commercial, industrial or business use; the use or occupation of this building for human habitation or for commercial, industrial, or business use is prohibited and unlawful.”

(e) The duties of the City Manager set forth in paragraph (d) of this section shall not be exercised until the City Council has approved by ordinance the action to be taken.

(f) The amount of the costs of such repairing, altering or improving or vacating and closing or removal or demolition by the City Manager shall be a lien against the real property upon which such costs were incurred. Such lien shall attach to the real property upon the

payment of all costs of repairing, altering or improving or vacating and closing or removal or demolition by the City and the filing of an itemized statement of the total sum of such costs by the City Manager in the office of the City Clerk on a lien docket maintained by the City Clerk for such purposes. If the dwelling, building, or structure is removed or demolished by the City Manager, he shall sell the materials of such dwelling, building, or structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the City treasury by the City Manager, shall be secured in such manner as may be directed by the City Clerk, and shall be disbursed by the City Clerk to the persons found to be entitled thereto by final order or decree of the court.

(g) The City may enforce the collection of any amount due on such lien for repairing, altering or improving or vacating and closing or removal or demolition of dwellings, buildings, or structures only in the following manner:

(1) The owner or party(ies) at interest shall be allowed to satisfy the amount due on the lien by paying to the City, within thirty (30) days after the perfection of the lien, a sum of money equal to the twenty-five percent (25%) of the total amount due and by further paying to the City the remaining balance due on the lien, together with interest at the rate of seven percent (7%) per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as prescribed in this paragraph. The term "perfection" as used hereinabove is defined as the placement of the amount of the lien by listing the same upon the lien docket maintained by the City Clerk as referenced above.

(2) Should the property upon which the lien is perfected be sold, transferred, or conveyed by the owner or party(ies) at interest at any time prior to the termination of the three-year period, then the entire balance due on the lien shall be due and payable to the City on the date of the sale, transfer or conveyance.

(3) Should the amount due on the lien, or any portion thereof, be unpaid after the expiration of the three-year period, or upon the occurrence of the contingency provided for in subsection (2), above, the City may enforce the collection of any amount due on the lien for the repairs, alterations, improvements, vacating and closing, removal or demolition of dwelling, buildings, or structures in the same manner as provided in O.C.G.A. § 48-5-358, as amended, 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 the property, all as provided by O.C.G.A. § 48-4-40 et seq.

(Ord. of 12-22-86(2), § I; Ord. of 1-11-88(2), § 1; Ord. of 2-14-94, §§ I--V; Ord of 12-8-03)

#### Section 5-289 Powers of city manager in regard to unfit buildings or structures.

An ordinance adopted by the city council may authorize the city manager to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the city in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;

- (3) To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this article; and
- (5) To delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Ord. of 12-22-86(2), § I)

Section 5-290 Service of complaints or orders upon parties in interest and owners of unfit buildings or structures.

(a) Complaints or orders issued by the city manager pursuant to this article shall, in all cases, be served upon each person in possession of such property, each owner, and each party in interest. The return of service signed by the city manager or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint or order was served upon each person in possession of such property, each owner, and each party in interest personally or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person in possession, owner, and party in interest.

(b) If any of the owners and parties in interest shall reside out of the city, service shall be perfected by causing a copy of such complaint or order to be served upon such party by the sheriff or any lawful deputy of the county of the residence of such party or parties, or such service may be made by any citizen. The return of such sheriff or lawful deputy or the affidavit of such citizen that such party or parties were served either personally or by leaving a copy of the complaint or order at the residence, shall be conclusive as to such service.

(c) Nonresidents of this state shall be served by posting a copy of such complaint or order in a conspicuous place on the premises affected by the complaint or order. Where the address of such nonresidents is known, a copy of such complaint or order shall be mailed to them by registered or certified mail.

(d) If either the owner or any party in interest is a minor or an insane person or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside the city or is a nonresident, he shall be served as provided for in paragraph (b) or (c) in such cases. If such minor or insane person or person laboring under disabilities has no guardian or personal representative or if such minor or insane person lives outside the city or is a nonresident, service shall be perfected by serving such minor or insane person personally or by leaving a copy at the place of his residence, which shall be sufficient evidence as to the service of such person. In the case of other persons who live outside of the city or are nonresidents, service shall be perfected by serving the judge of the probate court of the county wherein such property is located who shall stand in the place of and protect the rights of such minor or insane person or appoint a guardian ad litem for such person.

(e) If the whereabouts of any owner or party in interest is unknown and such whereabouts cannot be ascertained by the city manager in the exercise of reasonable diligence and the city manager shall make an affidavit to that effect, then the service of such complaint or order upon such person shall be made in the same manner as provided in paragraph (c) or service may be perfected upon any person, firm or corporation holding itself out as an agent for the property involved.

(f) A copy of such complaint or order shall also be filed in the proper office or offices for the filing of lis pendens notice in the county in which the dwelling, building or structure is located and such filing of the complaint or order shall have the same force and effect as other lis pendens

notices provided by law. Any such complaint or order or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the clerk of the city. (Ord. of 12-22-86(2), § I; Ord. of 1-11-88(2), § I; Ord. of 2-14-94, § V)

Section 5-291 Application to other private property.

All the provisions of this article including method and procedure may also be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance to those persons residing in the vicinity.

(Ord. of 12-22-86(2), § I)

Section 5-292 Injunctions against order to repair, close, or demolish unfit buildings or structures.

Any person affected by an order issued by the city manager may petition to the superior court for an injunction restraining the city manager from carrying out the provisions of the order and the court may upon such petition issue a temporary injunction restraining the city manager pending the final disposition of the case; provided, however, that such person shall present such petition to the court within fifteen (15) days of the posting and service of the order of the city manager. De novo hearings shall be had by the court on petitions within twenty (20) 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 provision.

(Ord. of 12-22-86(2), § I)

Section 5-293 Taking of unfit buildings or structures by eminent domain; police power.

Nothing in this article shall be construed as preventing the owner 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 as permitting any property to be condemned or destroyed except in accordance with the police power of this state.

(Ord. of 12-22-86(2), § I)

Section 5-294 5-294--5-310. Reserved.