

First Reading: _____

Derelict and Blighted Property Ordinance

Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF LYONS, GEORGIA RELATING TO DERELICT AND BLIGHTED PROPERTY; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR A PROCEDURES FOR A DECLARATION OF A PUBLIC NUISANCE; TO PROVIDE FOR A COMPLAINT AND APPEAL PROCESS; TO PROVIDE POWERS OF CITY OFFICERS; TO PROVIDE FOR SERVICE OF PROCESS; TO PROVIDE A LIMITATION OF LIABILITY; TO PROVIDE FOR A LEVY OF INCREASE ON AD VALOREM TAXES FOR BLIGHTED PROPERTY; TO PROVIDE FOR IDENTIFICATION OF BLIGHTED PROPERTY; TO PROVIDE FOR REMEDIATION; TO PROVIDE FOR A DECREASE ON AD VALOREM TAXES ON PROPERTY; TO PROVIDE PROCEDURES; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR VIOLATIONS; TO PROVIDE PENALTIES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

ARTICLE II- NUISANCES

DIVISION 3- UNFIT BUILDINGS AND STRUCTURES- DERELICT PROPERTY

Chapter 26 of the Municipal Code of the City of Lyons is amended by deleting and repealing Sections 26-91 through section 26-102 of the current code and replacing them with the following sections 26-90 through 26-100 which shall include the following language:

Sec. 26-90. Short Title.

This Article shall be known as the “Derelict Property Ordinance.”

Sec. 26-91. Definitions.

As used in this article, the term:

- (a) *Applicable codes* means any optional housing or abatement standard provided in O.C.G.A. title 8, chapter 2 as adopted by ordinance or operation of law, or other

property-maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; any fire or life safety code as provided for in O.C.G.A. title 25, chapter 2; and any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. title 8, chapter 2 after October 1, 1991, provided that such building or minimum standard codes for real-property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

- (b) *Closing* means causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.
- (c) *Drug crime* means an act which is a violation of O.C.G.A. title 16, chapter 13, article 2, known as the "Georgia Controlled Substances Act".
- (d) *Dwellings, buildings, or structures* means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this article, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.
- (e) *Graffiti* means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface without prior authorization from the owner or occupant of the property.
- (f) *Governing authority* means the City Council of the City of Lyons, Georgia.
- (g) *Interested party* means:
 - (1) The "owner";
 - (2) Persons in possession of said property and premises;
 - (3) Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;

- (4) Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9; and
 - (5) Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the municipality or records maintained in the county courthouse or by the clerk of court; provided, however, interested party shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected.
- (h) *Municipality* means the City of Lyons, Georgia.
 - (i) *Owner* means the holder of the title in fee simple and every mortgagee of record.
 - (j) *Public authority* means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county or state) relating to health, fire, life safety, building regulations, or to other activities concerning dwellings, buildings, or structures, or use of private property within the city.
 - (k) *Public officer* means the city manager, who is authorized to exercise the powers prescribed by article, and any officer or employee of the city to whom he delegates such authority.
 - (l) *Repair* means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.
 - (m) *Resident* means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

Sec. 26-92. Duty of owners of real property and structures thereon.

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

Sec. 26-93. Declaration of public nuisance.

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

Sec. 26-94. Powers of city manager or his designee.

- (a) In carrying out his duties pursuant to this article, the city manager or his designee to whom his authority is assigned shall, in addition to those powers otherwise conferred upon or delegated to him by the Charter and other ordinances of the city, be empowered to:
 - (1) Investigate and inspect the condition of dwellings, buildings, structures, and private property within the city to determine those structures and property uses in violation of this article. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists.
 - (2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys.
 - (3) To appoint and fix the duties of such officers and employees of the city as he deems necessary to carry out the purposes of this article; and
 - (4) To delegate any of his functions and powers under this article to such officers, employees and agents as he may designate.

- (b) In addition to the procedures set forth in this article, the city manager or his designee(s) may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions declared to constitute a public health or safety hazard or general nuisance, and to seek enforcement of such citations before the municipal court prior to issuing a complaint in rem as provided in this article. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by other summary proceedings.

Sec. 26-95. Complaint in rem in municipal court; procedure; lien; appeal.

- (a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his findings. Such officer shall be guided in his investigation by documenting conditions, which include but are not limited to:
 - (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair by failure to conform to applicable codes and ordinances;
 - (5) Structural defects which render the structure unsafe for human habitation or occupancy;
 - (6) Uncleanliness; or
 - (7) The presence of graffiti which is visible from adjoining public or private property.
- (b) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall file a complaint in rem in the municipal court of the city against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general

nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court at a date and time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

- (c) If, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state, in writing, findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:
 - (1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, 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 by closing the structure so that it cannot be used in connection with the commission of drug crimes; or
 - (2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.

For purposes of this section, the court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building or structure shall not be ordered demolished or closed, but its owner may be ordered

to repair the same by cleaning or removal of the graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. title 43, chapter 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.

- (d) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days of the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to subsection (c) of this section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action shall commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

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

- (e) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.
- (f) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
- (g) The lien provided for in subsection (e) shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the

office of the clerk of superior court in Toombs County and shall relate back to the date of the filing of the lis pendens notice required under subsection (a). The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall, within 90 days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.

- (h) It shall be the duty of the county tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. § 48-4-5; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply; provided, further, that redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81. The tax commissioner may initiate enforcement of liens imposed under this section at any time following receipt of the final determination of costs from the public officer. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.
- (i) The tax commissioner shall remit the amount collected to the governing authority of the municipality whose ordinance is being enforced. The tax commissioner may retain an amount equal to the cost of administering collection of the lien. Any such amount collected and retained for administration shall be deposited in the general fund of the county to pay the cost of administering the lien.
- (j) The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
- (k) Review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

Sec. 26-96. Service of complaints or orders upon owners and parties in interest.

- (a) Summons and copies of the complaint shall be served in the following manner:

- (1) In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure, or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing.
 - (2) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons shall also be mailed by first-class mail to the property address to the attention of the occupants, if any;
 - (3) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two consecutive weeks prior to the hearing; and
 - (4) A notice of lis pendens shall be filed in the office of the clerk of superior court in which the dwelling, building, structure, or property is located at the time of filing the complaint in municipal court.
- (b) The public officer shall cause an affidavit of service to be filed of record in the municipal court prior to the hearing showing compliance with the service requirements of this section. Such affidavit shall constitute a prima facie showing of minimum procedural due process and shall constitute sufficient proof that service was perfected.
- (c) Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on every interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Sec. 26-97. Limitation of liability for code enforcement; no special duty created.

It is the intent of this article to protect the public health, life safety and general welfare of properties and occupiers of buildings and structures within the city in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the city. Approval of a permit and inspection of a property shall in no manner guarantee or warrant to the owner or occupants thereof that said property has been constructed, maintained, or operated in conformance with applicable codes, laws and regulations. The city reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any federal or state

law, regulation, or ordinance requires compliance as a condition precedent to the issuance of a permit, plan or design approval, inspection or other activity by the city, its officers, employees and agents, issuance of such permit, approval, or inspection shall not be deemed to constitute a waiver or estoppel of the condition precedent, and it shall remain the obligation and responsibility of the owner, his design professional(s), and contractor(s) to satisfy such legal requirements.

Sec. 26-98. General cleanliness of premises.

The owner and occupant of property within the city shall each be independently responsible for keeping the premises, including all buildings thereon and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes, trash, rubbish and other offensive materials.

Sec. 26-99. Disorderly house.

- (a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.
- (b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

Sec. 26-100. Violations; enforcement penalties.

Any person who willfully refuses to comply with the provisions of this article shall be cited to appear before the municipal court and, upon conviction, shall be fined not less than

\$100.00; each day of continued violation, after citation, shall constitute a separate offense. In addition to the foregoing fines, upon conviction, the director shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary, by-pass, or inter-connection has been discontinued.

DIVISION 2- BLIGHTED PROPERTY ORDINANCE

Chapter 26 of the Municipal Code of the City of Lyons is amended by deleting and repealing section 26-56 through section 26-63 and replacing them by adding sections the following sections 26-56 through 26-63 which shall include the following language:

Sec. 26-56. Short Title.

This Article shall be known as the “Blighted Property Ordinance.”

Sec. 26-57. Purpose.

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the city, this board of commissioners, in exercise of the powers granted to municipal corporations at Chapter 61, Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those areas of the city where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvement thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.

Sec. 26-58. Definitions.

- (a) 'Blighted property', 'blighted', or 'blight' means any urbanized or developed property which:
- (1) Presents two or more of the following conditions:
 - (A) Uninhabitable, unsafe, or abandoned structure;
 - (B) Inadequate provisions for ventilation, light, air, or sanitation;
 - (C) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by the property and the owner has failed to take reasonable measures to remedy the harm;
 - (D) A site identified by the federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601, et seq., or having environmental contamination to an extent that requires remedial investigation or a feasibility study;
 - (E) Repeated illegal activity on the individual property of which the property owner knew or should have known; or
 - (F) The maintenance of the property is below state, county, or municipal codes for at least one year after written notice of the code violation to its owner; and
 - (2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

Property shall not be deemed blighted solely because of esthetic conditions.

- (b) 'Building inspector' means a certified inspector possessing the requisite qualifications to determine minimal code compliance.
- (c) 'Community redevelopment' means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or thorough local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.

- (d) 'Governing authority' means the City Council of the City of Lyons, a Georgia municipal corporation.
- (e) 'Millage' or 'millage rate' means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction's general fund expenses for the fiscal year.
- (f) 'Person' means such individual(s), partnership, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.
- (g) 'Public officer' means the city manager or such officer or employee of the city as designated by the city manager to perform the duties and responsibilities hereafter set forth in this article.

Sec. 26-59. Ad Valorem Tax Increase on Blighted Property

- (a) There is hereby levied on all real property within the city which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven (7.0) to the millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the municipality, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.
- (b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.
- (c) Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the city manager and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the city's program to close, repair, or demolish unfit building and structures.

Sec. 26-60. Identification of Blighted Property.

- (a) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:

- (1) An inspection must be performed on the parcel of property. In order for an inspection to be performed,
 - (A) A request may be made by the public officer or by at least five residents of the city for inspection of a parcel of property, said inspection to be based on the criteria as delineated in ordinance, or
 - (B) The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this article for designation as being maintained in a blighted condition.
 - (2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the city are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.
 - (3) Following completion of the inspection report, the public officer shall make a determination, in writing, that a property is maintained in a blighted condition, as defined by this article, and is subject to increased taxation.
 - (4) The public officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Toombs County as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, except that posting of the notice on the property will not be required.
- (b) The written notice given to the person(s) chargeable with the payment of ad valorem taxes shall notify such person of the public officer's determination the real property is being maintained in a blighted condition and shall advise such person

of the hours and location at which the person may inspect and copy the public officer's determination and any supporting documentation. Persons notified that real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of notice in which to request a hearing before the city's municipal court. Written request for hearing shall be filed with the public officer and shall be date stamped upon receipt. Upon receipt of a request for hearing, the public officer shall notify the municipal court and the building inspector or person who performed the inspection and prepared the inspection report.

- (c) Within 30 days of the receipt of a request for hearing, the municipal court clerk shall set a date, time and location for the hearing and shall give at least ten business days notice to the person(s) requesting the hearing, the public officer and the building inspector or person who performed the inspection and prepared the inspection report. Notice of scheduled hearings shall be published as a legal advertisement in the Advance Progress, or other designated legal organ in Toombs County, at least five days prior to the hearing. Hearings may be continued by the municipal court judge upon request of any party, for good cause.
- (d) At the hearing, the public officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this article. The municipal court judge shall cause a record of the evidence submitted at the hearing to be maintained. Upon hearing from the public officer and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the judge of municipal court shall make a determination either affirming or reversing the determination of the public officer. The determination shall be in writing and copies thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the court shall be deemed final. A copy of such determination shall also be served upon the Tax Commissioner of Toombs County, who shall include the increased tax on the next regular tax bill rendered on behalf of the city.
- (e) Persons aggrieved by the determination of the court affirming the determination of the public officer may petition the Superior Court of Toombs County for a writ of certiorari within 30 days of issuance of the court's written determination.

Sec. 26-61. Remediation or Redevelopment.

- (a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this article as property maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance with the following:
 - (1) Completion of work required under a plan of remedial action or redevelopment approved by the city's planning and development director

which addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; or

- (2) Completion of work required under a court order entered in a proceeding brought pursuant to Article II, Division 3, Unfit Buildings and Structures, of Chapter 26 of the Code of Lyons, Georgia.
- (b) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector who, by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Toombs County.
- (c) All plans for remedial action or redevelopment shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the director of the city's planning and development department, and contain the following:
 - (1) The plan shall be consistent with the city's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for the area within which the property lies;
 - (2) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property;
 - (3) On parcels of five acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;
 - (4) The plan shall contain verifiable funding sources which will be used to complete its requirements and show the feasibility thereof;
 - (5) The plan shall contain a timetable for completion of required work; and

- (6) Any outstanding ad valorem taxes (state, school, county and city, including the increased tax pursuant to this article) and governmental liens due and payable on the property must be satisfied in full.

Sec. 26-62. Decrease of Tax Rate.

- (a) Real property which has had its designation as maintained in a blighted condition removed by the public officer, as provided in Section 26-60. Identification of Blighted Property, of this Article, shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.5 to the city millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the municipality or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every \$25,000.00 or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in city ad valorem taxes for more than four successive years.
- (b) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

Sec. 26-63. Notice to Tax Commissioner.

It shall be the duty of the public officer to notify the Tax Commissioner of Toombs County in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and tax map, block and parcel number, as assigned by the Toombs County Tax Assessor's Office. The public officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this article.

SECTION THREE

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Sections 26-56 through Section 26-102 of the municipal code of the City of Lyons, Georgia are hereby repealed and replaced with this ordinance.

SECTION FOUR

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FIVE

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this ____ day of _____, 2013

Willis NeSmith, Mayor
City of Lyons, Georgia

ATTEST:

Clerk of Council