

DRAFT – FOR DISCUSSION

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 54 (“NUISANCES”), ARTICLE 2 (“UNFIT DWELLINGS OR STRUCTURES”), SECTION 54-2-3 (“DETERMINATION BY PUBLIC OFFICER THAT UNDER EXISTING ORDINANCES, DWELLINGS, BUILDINGS, OR STRUCTURES ARE VACANT AND SAMPLE CONDITIONS OF NUISANCES”) OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and all powers of the City shall be vested in the mayor and council. The mayor and council shall be the legislative body of the City; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, amendments to any of the provisions of the City’s Code may be made by amending such provisions by specific reference to the section number of the City’s Code; and,

WHEREAS, every official act of the mayor and council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable to amend and update the ordinance regarding vacant dwellings, buildings or structures and establish fees regarding the same.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Section 54-2-3 (Determination by public officer that under existing ordinances dwellings, buildings, or structures are vacant and sample conditions of nuisances) in Chapter 54 (Nuisances), Article 2 (Unfit Dwellings or Structures) of the City Code of Ordinances is hereby amended by striking the section in its entirety and inserting in lieu thereof the following language:

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(a) *Determination of Nuisance.* The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which 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. Such conditions include the following (without limiting the generality of the foregoing):

- (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;
- (5) Structural defects;
- (6) Uncleanliness; and
- (7) Other additional standards which may from time to time be adopted and referenced herein by ordinance amendment.

(b) *Determination and Notice.* The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, or being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed. If the public officer determines that the dwelling, building, or structure is vacant, dilapidated, or being used in connection with the commission of drug crimes, then the public officer must send a notice via certified mail to the owner of record of the dwelling, building, or structure. Said notice shall (1) enumerate the condition that the public officer determined the dwelling, building or structure to constitute a nuisance; (2) enumerate the actions which such person should take in order to abate the nuisance; and (3) the fines incurred if such nuisances is not abated.

(c) *Fines.* The record owner of the dwelling, building, or structure shall have forty-five (45) days from the date of the notice to abate the nuisance. If the record owner fails to do so, then the public officer shall send citation via certified mail to the record owner. The fine shall be \$_____.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this

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Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney