

**STATE OF GEORGIA  
CITY OF HAPEVILLE**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND CHAPTER 54 (“NUISANCES”), ARTICLE 2 (“UNFIT DWELLINGS OR STRUCTURES”), SECTION 54-2-1 (“DEFINITIONS”) AND 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in effect not inconsistent with the provisions of the City’s charter shall remain effective until they have been repealed, modified or amended; and,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 54-2-1 (Definitions) 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:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicable codes* means:

- (1) Any optional housing or abatement standard provided in chapter 2 of title 8 of the O.C.G.A. as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
- (2) Any fire or life safety code as provided for in chapter 2 of title 25 of the O.C.G.A.; and
- (3) Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. chapter 2 of title 8 after October 1 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.

*Child-related crime* means any act which is a violation of O.C.G.A. Chapter 6 of Title 16 (O.C.G.A. § 16-6-1 et seq.) relating to children under the age of 18 years.

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

*Drug crime* means an act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16 (O.C.G.A. § 16-13-20 et seq.), known as the Georgia Controlled Substances Act.

*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. 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.

*Governing authority* means the mayor and council of the city.

*Municipality* means any incorporated city within this state.

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

*Parties in interest* means:

- (1) Persons in possession of said property and premises;
- (2) Persons having of record in the county in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia;

(3) Persons having paid an occupational tax to the governing authority for a location or office at the subject building or structure; or

(4) Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

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

*Public officer* means the officer or officers who are authorized by O.C.G.A. §§ 41-2-7, 41-2-8 and 41-2-9 through 41-2-17 and by this chapter adopted under O.C.G.A. §§ 41-2-7, 41-2-8 and 41-2-9 through 41-2-17 to exercise the powers prescribed by this chapter or any agent of such officer or officers.

*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.

*Resident* means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

**Section Two.** 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:

(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;
- (7) Use in connection with drug crimes, sex crimes, or

(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 that a dwelling, building, or structure is vacant, dilapidated, or being used in connection with the commission of drug crimes or child-related crimes based upon personal observation or report of a law enforcement agency and evidence of drug or child-related 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 or child-related 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 \$150.00 for residential properties and \$350.00 for commercial properties, and shall double every ninety (90) days that the nuisance is not abated. Notice must be provided to property owner of the fine and any subsequent fines thereafter. The municipality reserves the right to utilize any and all available remedies at law to abate said nuisance.

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

**Section Six. 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**

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**Alan Hallman, Mayor**

**ATTEST:**

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Crystal Griggs-Epps, City Clerk

**APPROVED BY:**

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City Attorney