

BUILDINGS AND BUILDING REGULATIONS

Chapter 7

**BUILDINGS AND BUILDING REGULATIONS\***

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\***Cross reference**—Construction project signs abutting or visible from I-75 right-of-way, § 3-42; requirements for buildings used by liquor dealers, § 4-200; erosion and sediment control, Ch. 10; fire prevention and protection, Ch. 11; license fee for contractors, § 12-21; containers for construction litter, § 20-49; streets and sidewalks generally, Ch. 21; street numbers for buildings, § 21-56 et seq.; utilities, Ch. 23; zoning ordinance, App. A.

**State law reference**—Buildings and housing, OCGA Title 8.

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### ARTICLE I. IN GENERAL

#### Sec. 7-1. Fees for permits required by chapter.

The fees for permits required by this chapter, including those required by the codes adopted in this chapter, shall be such as are prescribed from time to time by the city council. Nothing in this Code or the ordinance adopting this Code shall affect any ordinance prescribing or otherwise relating to such fees and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

#### Sec. 7-2. Violations of codes adopted by chapter.

It shall be unlawful for any person to violate any of the provisions of any code adopted by this chapter or fail to comply therewith, or to violate or fail to comply with any order made thereunder, or to build of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder.

(Code 1967, §19-13)

#### Sec. 7-3. Minimum standard codes adopted.

Pursuant to Official Code of Georgia Annotated Section 8-2-25(a) the City of Forsyth, as required by Georgia law hereby adopts and is authorized to enforce the following minimum standards codes:

- (a) *Standard Mechanical Code*, 1994 edition, published by SBCCI;
- (b) Council of American Building Officials *One-And-Two-Family Dwelling Code*, 1992 edition, (with the exception of the part titled Plumbing); and
- (c) *Georgia State Energy Code for Buildings*, 1992 edition, as adopted by the State Building Administrative Board.  
(Ord. of 1-7-92, § 7; Ord. of 11-8-95, §§ 7-9)

**Editor's note**—Provisions enacted by § 7 of an ordinance adopted Jan. 7, 1992, have been included herein at the discretion of the editor as § 7-3.

#### Secs. 7-4—7-15. Reserved.

### ARTICLE II. BUILDING CODE\*

#### Sec. 7-16. Adopted.

There is hereby adopted by the city council, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain code known as the *Standard Building Code*, being particularly the 1994 edition, as published by the Southern Building Code Congress International, Inc., save and except such portions as are hereafter deleted, modified or amended, and

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\***State law reference**—Standards and requirements for construction, alteration, etc., of buildings and other structures, OCGA § 8-21 et seq.

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the same is hereby adopted and incorporated as fully as if set out in length herein and the provisions thereof shall be controlling in the construction of all buildings and other subjects therein contained within the corporate limits of the city.

(Code 1967, § 5-2; Ord. of 1-7-92, § 1; Ord. of 11-8-95, § 1)

**State law reference**—Authority of city to adopt building code, Ga. Cost. Art. IX, § II, ¶ III(a)(12).

### **Sec. 7-17. Fire district designated.**

The fire district of the city shall consist of the following territory:

- (1) The eight (8) square fronting or cornering on the streets surrounding the courthouse square, together with the square east of the square cornering at a northeast corner of the public square.
- (2) The square lying immediately east of the square fronting on the east side of the courthouse square, such square being bounded on the north by Johnston Street; on the east by Harris Street; on the south by Main Street; and on the west by Kimball Street.
- (3) The square bounded on the north by Main Street; on the east by Harris Street; on the south by Chambers Street; and on the west by Kimball Street.
- (4) The block bounded on the north by Chambers Street; on the east by Harris Street; on the south by a street leading eastward into Harris Street; and on the west by Kimball Street.
- (5) The block bounded on the north by Chambers Street; on the east by Kimball Street; on the south by a street leading eastward and across Kimball Street; and on the west by South Lee Street.

(Code 1967, § 5-1)

**Cross reference**—Skating on streets in fire districts, § 2-16.

### **Sec. 7-18. Permit for demolition of structures.**

- (a) It shall be unlawful for any person to demolish any building, house or other structure within the city, without first obtaining a written permit from the building official.
- (b) The term “demolish,” as used in this section, shall mean to raze and shall not be synonymous with remove. The removal or moving of any structures within the city shall be governed by other ordinances of the city relating to moving of buildings. Partial demolition in connection with the erection of or alteration to buildings and structures shall be governed by ordinances of the city relating to building permits, when such partial demolition is an integral part of a specific erection or addition and a proper building permit has been granted and such partial demolition is made a part of an application for a building permit.
- (c) Before any demolition permit is issued, there shall be filed with the building official a plat or scale drawing showing the location and size of the lot upon which the structure to be demolished is located, the location of the structure on the lot, the dimensions of the structure and the location of adjacent buildings or structures, whether on the same or adjacent lots. The applicant for such permit shall also file with the building official the appropriate beginning and completion dates of the demolition,

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together with the name, address and phone number of the applicant and the name and address of the owner of the structure to be demolished, if different from the applicant.  
(Ord. of 5-3-83, §§ 1-3)

**Secs. 7-19—7-30. Reserved.**

### ARTICLE III. PLUMBING CODE\*

**Sec. 7-31. Adopted.**

There is hereby adopted, for the purpose of prescribing regulations for plumbing installations, including alterations, repairs, replacements, equipment, appliances, fixtures, fittings and appurtenances thereto, that certain code known as the *Standard Plumbing Code*, being particularly 1994 edition, as published by the Southern Building Code Congress International, Inc., and the same is hereby adopted and incorporated as fully as if set out at length herein and the provisions thereof shall be controlling within the city limits.

(Code 1967, § 19-1; Ord. of 1-7-92, § 2; Ord. of 11-8-95, § 2)

**State law reference**—Authority of city to adopt plumbing code, Ga. Const. Art. IX, § II, ¶ III(a)(12).

**Secs. 7-32—7-45. Reserved.**

### ARTICLE IV. GAS CODE

**Sec. 7-46. Adopted.**

There is hereby adopted by the city, as a standard for the installation of gas piping and gas appliances in buildings, that certain code known as the *Standard Gas Code*, being particularly the 1994 edition, as published by the Southern Building Code Congress International, Inc., and the same is hereby adopted and incorporated as fully as if set out at length and the provisions thereof shall be controlling in the installation of gas piping and gas appliances in all buildings and other structures located within the city.

(Code 1967, § 19-12; Ord. of 1-7-92, § 3; Ord. of 11-8-95, § 3)

**Secs. 7-47—7-60. Reserved.**

### ARTICLE VI. ELECTRICAL CODE

#### DIVISION 1. GENERALLY

**Sec. 7-61. Short title; enforcement.**

This article, together with code adopted by Section 7-63, shall be known as the Electrical Code of the city of Forsyth. Such code shall be enforced by the superintendent of the electrical department or his authorized representatives.

(Ord. of 4-5-71, Intro. ¶1)

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\*Cross references—Water, § 23-16, et seq.; sewers and sewage disposal, § 23-36 et seq.

**Sec. 7-62. Definition.**

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As used in this article, the term “superintendent” shall mean the superintendent of the electrical department or his authorized representatives.

### **Sec. 7-63. National Code adopted.**

(a) For the purpose of establishing minimum standards for the installation of electrical construction, equipment and appliances and other similar work in the city, there is hereby adopted that certain code known as the *National Electrical Code*, 1993 edition, published by the National Fire Protection Association, save and except such portions as are hereafter altered, amended, or deleted, and the same is hereby adopted and incorporated by reference as fully as if set out at length herein, and the provisions thereof shall be of force and effect throughout the city.

(b) In the event of any conflict between any provision of the code adopted by this section and any other section of this article, the provisions of such section of this article shall govern.

(Ord. of 4-5-71, Intro ¶; Ord. of 1-7-92, § 4; Ord. of 11-8-95, § 4)

**State law reference**—Authority of city to adopt electrical code, Ga. Const. Art. IX § II ¶ III(a)(12).

### **Sec. 7-64. Work permit.**

(a) It shall be unlawful for any person to install any new electrical wiring or alter any existing electrical wiring, when the cost of such work exceeds twenty-five dollars (\$25.00), without first obtaining a permit to do so from the superintendent.

(b) Application for a permit required by this section shall contain a statement of the proposed work and shall be accompanied by the prescribed fee.

(c) A permit required by this section shall be issued only to an electrician certified under division 2 of this article or a person who proposes to do the work on his own property.

(Ord. of 4-5-71, Ch. V, § C; Ch. VI)

### **Sec. 7-65. Inspection and approval of work.**

All work for which a permit is required by Section 7-64 shall be subject to inspection and approval by the superintendent. When such work is ready for inspection, the holder of the permit shall notify the superintendent of such fact and the superintendent shall make the inspection and inform the permit holder of defects, if any, in the installation. If any defects are found, the permit holder shall correct the same and notify the superintendent that the installation is ready for final inspection. If, after a second inspection, defects have not been corrected, a fee shall be charged for each return inspection, in such amount as is prescribed by the city council.

(Ord. of 4-5-71, Ch. I, § E)

### **Sec. 7-66. Refusal or disconnection of service to defective wiring, equipment or appliance.**

(a) The superintendent shall have the authority to refuse electrical service to any building new or old, in which the wiring fails to meet the requirements of this article.

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- (b) The superintendent shall have authority to condemn any electrical wiring, equipment or appliance in the city which, in his opinion, is unsafe to life or property and, after three (3) days notice, shall order the current disconnected from such wiring, equipment or appliance.
- (c) In the event the owner or other person in possession of property involved in action taken by the superintendent under this section is dissatisfied with such action, he shall have the right to appeal the decision of the superintendent to the city council, by giving written notice to the city clerk, within four (4) days after the action of the superintendent, of his intention to appeal. Such appeal shall be heard by the council at the next regular meeting thereof and a decision shall be rendered within three (3) days after such meeting.  
(Ord. of 4-5-71, Ch. I, § D[1—3])

### **Secs. 7-67—7-80. Reserved.**

## DIVISION 2. ELECTRICIAN'S CERTIFICATE

### **Sec. 7-81. Required; exception.**

- (a) No person shall do any electrical wiring, repairing or construction within the limits of the city, unless he holds an electrician's certificate issued pursuant to this division. A helper working under the direct supervision of a person holding a certificate shall be required to hold helper's card.
- (b) No license shall be issued under Chapter 12 of this Code to any person to engage in the business of electrical construction or repair, unless the applicant has a current certificate issued under this division.
- (c) This section shall not apply to a person wiring property which belongs to him personally.  
(Ord. of 4-5-71, Ch. I, §§ A—C)

### **Sec. 7-82. Application.**

Application for a certificate required by this division shall be made at the office of the city clerk.  
(Ord. of 4-5-71, Ch. I, § A)

### **Sec. 7-83. Examination of applicant.**

- (a) Each applicant for an electrician's certificate shall be required to pass an examination as to his qualifications and the application for such certificate shall be accompanied by a five dollar (\$5.00) examination fee; provided, however, if the applicant furnishes to the city clerk evidence of his being certified as a master electrician by the state.
- (b) A prepared set of examination questions, approved by the mayor and the chairman of the electrical committee, will be given the applicant by the superintendent, who shall conduct the examination. A grade of seventy (70) percent or more will be required to pass such examination. Any applicant who fails to pass shall not be eligible to take another examination until after the expiration of thirty (30) days.  
(Ord. of 4-5-71, Ch. I, § A; Ord. of 3-18-74)

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### **Sec. 7-84. Issuance.**

The superintendent shall issue an electrician's certificate to an applicant who passes the examination provided for in Section 7-83.

(Ord. of 4-5-71, Ch. I, § A)

### **Sec. 7-85. Expiration and renewal.**

A certificate issued under this division shall expire on the thirty-first day of December of the year for which issued and must be renewed on or before January first of the following year. A renewal fee of one dollar (\$1.00) shall be charged.

(Ord. of 4-5-71, Ch. I, § A)

### **Sec. 7-86. Suspension or revocation; forfeiture.**

(a) A certificate issued under this division may be suspended or revoked by the superintendent, if the holder thereof fails to comply with the provisions of this article.

(b) If the holder of a certificate issued under this division continues to or persistently violates any of the provisions of this article, he shall forfeit his certificate and the reissuance of any such certificate shall only be after recommendation to that effect by the electrical committee.

(Ord. of 4-5-71, Ch. I, § A; Ch. VI)

### **Secs. 7-87—7-90. Reserved.**

## DIVISION 3. MISCELLANEOUS TECHNICAL REQUIREMENTS

### **Sec. 7-91. Application of division.**

The provision of this division shall apply to all electrical wiring and installation in the city.

### **Sec. 7-92. Workmanship; unusual wiring.**

(a) One of the prime requirements of this article shall be neat workmanship. Crude installations, such as wall switches and receptacles mounted crooked, cable not secured properly and any equipment not neatly installed, will not be approved.

(b) In the event of any unusual wiring installation or procedure, the superintendent should be consulted in order to be sure that such wiring will comply with this article.

(Ord. of 4-5-71, Ch. II)

### **Sec. 7-93. Service entrance generally.**

(a) The minimum size of service entrance equipment for individual dwellings shall be sixty (60) amp. two hundred forty (240) volts—three (3) wire. The minimum size service entrance equipment for individual dwellings having a floor area of over eight hundred (800) square feet shall be one hundred (100) amp. two hundred forty (240) volts—three (3) wire.

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- (b) Weatherheads are required. Leads extending from weatherheads for attachment to the serve [service] drop shall be a minimum of twenty-four (24) inches.
- (c) The weatherhead and point of attachment to the service drop shall be at least ten (10) feet above ground and twelve (12) feet above ground level, if the service drop from a pole crosses a driveway. If necessary, a mast shall be used to obtain the required clearance. The mast shall be a rigid conduit, with a minimum inside diameter of two (2) inches. The mast shall extend a minimum of three (3) feet and a maximum of four (4) feet above the roof. The mast shall be secured to a wall between the meter socket and an eave or boxing of the roof with approved straps.
- (d) Approved type cable and conduit straps shall be used. Anchors used for strapping cable and conduit to masonry or brick walls shall be an approved type. Wooden pegs are prohibited.
- (e) Service entrance cable or conduit shall be strapped at three-foot intervals and within one (1) foot of the weatherhead, meter socket and main switch.  
(Ord. of 4-5-71, Ch. 1, § D[4]. [9]; Ch. III)

### **Sec. 7-94. Meter sockets.**

Meter sockets shall be surface-mounted and absolutely vertical. Flush-mounted sockets will not be approved.  
(Ord. of 4-5-71, Ch. I, § D[5], [12])

### **Sec. 7-95. Conduit for underground services.**

Underground services shall be run in rigid conduit from the point of attachment at the service drop to the main disconnect switch.  
(Ord. of 4-5-71, Ch. 1, § D[6])

### **Sec. 7-96. Main disconnect switches generally.**

The main service disconnect switch shall be of a type capable of disconnecting the entire load at one point. Parallel switches will not be approved as a main disconnect switch.  
(Ord. of 4-5-71, Ch. I, § D[8])

### **Sec. 7-97. Size of service entrance conductor and main disconnect switch.**

Sizes of service entrance conductors and main disconnect switches shall be as follows:

#### *Main Disconnect Switch—Type & Minimum Size Conductor*

60 AMP No. 6	R, RH, TW,	RH-RW.
100 AMP No. 2	R, RH, TW,	RH-RW.
150 AMP No. 1/0	RH, RH-RW	No. 2/0 TW, R.
200 AMP No. 3/0	RH, RH-RW	No. 4/0 TW, R.

(Ord. of 4-5-71, Ch. I, § D[13])

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### **Sec. 7-98. Prohibited locations for service switches and equipment.**

The service switch equipment shall not be installed in closets, bathrooms or inaccessible places.  
(Ord. of 4-5-71, Ch. I, § D[7])

### **Sec. 7-99. Fuses.**

- (a) When plug or cartridge fuses are used, they must be in place before the installation is approved.
- (b) Renewable-type fuses will not be approved.  
(Ord. of 4-5-71, Ch. I, § D[10], [11])

### **Sec. 7-100. Grounding.**

- (a) All ground rods shall be installed by the electrical contractor on any particular project within the City of Forsyth, and such installation shall be monitored and inspected by the superintendent of the electrical department of the City of Forsyth or his authorized representative. There shall be a charge of the inspection of a ground rod in such amount as may, from time to time, be specified by the city council.
- (b) Copperweld ground rounds shall be used and shall not be less than eight (8) feet in length. Galvanized ground rods and pipe shall not be used.
- (c) The top of the ground rod shall be driven under the surface of the ground at least six (6) inches.
- (d) Ground wire shall be a minimum of No. 6 copper in size. Such wire shall extend from the driven ground rod or the weatherhead and shall be well secured with approved straps, anchors or staples every two (2) feet.
- (e) A ground shall be located at the meter socket or main switch only by permission of the superintendent, except that if a mast is used, grounding at the meter socket is required.
- (f) All receptacles in a kitchen shall be of the three-pole grounding type.  
(Ord. of 4-5-71, Ch. IV, § A; Ord. of 4-1-74; Ord. of 11-8-90, § 1)

### **Sec. 7-101. Bonding.**

In order to form a continuous bond on all conduit systems where the conduit enters junction boxes, panels or switches, they shall be secured by means of locknuts on each side of the metal and the conduit shall be provided with an approved type of brushing, unless fittings with screw hubs are used.  
(Ord. of 4-5-71, Ch. IV, § B)

### **Sec. 7-102. Branch circuits.**

- (a) The minimum size conductor for all branch circuits shall be No. 12 and such branch circuits shall have a maximum connected load of not more than one thousand five hundred (1,500) watts.

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- (b) A minimum of one (1) wall receptacle is required for each twelve (12) lineal feet of distance around the walls of each room, except the kitchen, which shall have one (1) for each eight (8) lineal feet of wall space. Receptacles shall be spaced equal distances apart insofar as possible.
- (c) Romex cable shall be secured in place at intervals not exceeding four and one-half (4½) feet and within twelve (12) inches of each box or switch.
- (d) Conduit shall be secured every five (5) feet with approved straps or supports.
- (e) Romex cable shall not be embedded in plaster or used in wet locations.
- (f) Romex cable shall not be used exposed on inside walls or brick, masonry or concrete walls.
- (g) Branch circuits serving a kitchen shall be for the kitchen only.
- (h) Each appliance rated at more than fifteen (15) amperes shall be supported through an individual branch circuit and each washing machine shall be on an individual branch circuit.
- (i) Kitchen branch circuits shall serve not more than twenty-four (24) lineal feet of wall space per circuit.
- (j) All joints shall be soldered and taped or be connected with approved solderless connectors.
- (k) No electrical conductors shall be installed nearer than three (3) inches to metal pipes or ducts which operate at a temperature in excess of one hundred twenty(120) degrees Fahrenheit.  
(Ord. of 4-5-71, Ch. V § A)

### **Sec. 7-103. Rigid conduit or metallic tubing required for certain installations.**

Theaters, schools, hotels, dormitories, hospitals and auditoriums shall be wired in rigid conduit or electric metallic tubing.  
(Ord. of 4-5-71, Ch. V, § B)

### **Secs. 7-104—7-115. Reserved.**

## ARTICLE VI. HOUSING CODE

### **Sec. 7-116. Adopted.**

There is hereby adopted, that certain code known as the *Standard Housing Code*, being particularly the 1991 edition thereof, as published by the Southern Building Code Congress International, Inc., and the same is hereby adopted and incorporated as fully as if set out at length herein and the provisions thereof shall be controlling within the city limits.

(Code 1967, § 12-8; Ord. of 1-7-92, § 5; Ord. of 11-8-95, § 5)

**State law reference**—Authority of city to adopt housing code, Ga. Const. Art. IX, § III(a)(12).

### **Secs. 7-117—7-130. Reserved.**

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### ARTICLE VII. HOUSE MOVING\*

#### **Sec. 7-131. Permit—required.**

No person shall, at any time, move a house or other building over or across the public streets of the city, or move any house or building on private property without crossing any of the public streets in the city, when such house or building is of such shape and size as to extend beyond the regular lanes provided for traffic on such streets, or of such height, when located upon the moving truck, as to reach the lowest of the utility lines located in the city, or when such house is more than ten (10) feet wide or twelve (12) feet high, without first securing from the building official a permit so to do from the building official.

#### **Sec. 7-132. Same—Application.**

In order to secure a permit required by Section 7-131, an application must be filed with the building official. The application shall state the name of the owner of the house or other building, the location from which it is to be moved, the location to which it is to be moved, the route through the city or across private property to be traversed in the moving, the dimensions of the house or other building, including type of structure, after being located on the moving truck, the date on which the house or other building is to be moved and the name of the person by whom the moving is to be done.

(Code 1967, § 5-18)

#### **Sec. 7-133. Same—Issuance.**

Upon receipt of a proper application under Section 7-132 and payment by the applicant of such fee as is prescribed by the city council, the permit shall be issued by the building official.

(Code 1967, § 5-19)

#### **Sec. 7-134. Notice to city clerk.**

In the event a permit is issued under Section 7-133, the holder thereof shall not have the right nor authority to move the house or other building, unless notice is given, in writing, to the city clerk of the exact time of the moving, at least forty-eight (48) hours prior to such time.

(Code 1967, § 5-20)

#### **Secs. 7-135—7-150. Reserved.**

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\*Cross reference—License fee for house movers, § 12-21.

### ARTICLE VIII

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### DIVISION 1. DERELICT PROPERTY.

**Sec. 7-151. Short Title.** This Article shall be known as the "City of Forsyth Derelict Property Ordinance."

**Sec. 7-152. Definitions.**

As used in Article VIII, 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 Forsyth, Georgia.

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- (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 Forsyth, 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 administrator, 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. 7-153. 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

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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. 7-154. 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. 7-155. Powers of city administrator or his designee.**

- (a) In carrying out his duties pursuant to this article, the city administrator 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.

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- (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 administrator 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. 7-156. 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

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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

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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 Monroe 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

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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. 7-157. 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

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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. 7-158. 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. 7-159. General cleanliness of premises.**

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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. 7-160. 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.

### **Secs. 7-162 – 7-164. Reserved.**

### **Sec. 7-165. 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 of the City of Forsyth 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 city administrator shall order discontinued 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.

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### SECTION TWO

Chapter 7 of the Code of the City of Forsyth is further amended by adding a new Division 2 of Article VIII, which shall include the following language:

#### DIVISION 2. BLIGHTED PROPERTY

##### **Sec. 7-166. Short Title.**

This Article shall be known as the "City of Forsyth Blighted Property Ordinance."

##### **Sec. 7-167. 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, the City Council, 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. 7-168. 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;

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- (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 Forsyth, 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.

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- (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 administrator or such officer or employee of the city as designated by the city administrator to perform the duties and responsibilities hereafter set forth in this article.

### **Sec.7-169. 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 administrator 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. 7-170. 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

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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 Monroe 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)

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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 Monroe County Reporter or other designated legal organ in Monroe 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 Monroe 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 Monroe County for a writ of certiorari within 30 days of issuance of the court's written determination.

### **Sec. 7-171. 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 any proceeding brought pursuant to any Unfit Buildings and Structures Code of the City of Forsyth.
- (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

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this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Monroe 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. 7-172. 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 7-171, 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.

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- (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. 7-173. Notice to Tax Commissioner.**

It shall be the duty of the public officer to notify the Tax Commissioner of Monroe 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 Monroe 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.

### **Secs. 7-174 – 7-190. Reserved.**

## **ARTICLE IX. HISTORIC PRESERVATION**

### **Sec. 7-191. Definitions.**

As used in this article, the term:

*Building* means a structure created to shelter any form of human activity, such as by way of example a house, barn, church, hotel or other structure. "Building" may also mean or refer to a historically related complex such as a courthouse and jail or a house and barn.

*Certificate of appropriateness* means a document approving a proposal to make a material change in the appearance of a designated historic property or of a structure, suite, or work of art located within a designated historic district, which document must be obtained from the historic preservation commission before such material change may be undertaken.

*Exterior architectural features* means the architectural style, general design and general arrangement of the exterior of a building, or other structure, including but not limited to, the kind or texture of the building material; the type and style of all windows, doors, and signs; and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

*Exterior environmental features* means all those aspects of the landscape or the development of a site which affect the historic character of the property.

*Historic district* means a geographically definable area which contains structures, sites, works of art, or a combination thereof which:

- (1) Have special character or special historical or esthetic interest of value;

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- (2) Represent one or more periods or styles of architecture typical of one or more eras in the history of the City of Forsyth, Monroe County, or the State of Georgia; and
- (3) Cause such area, by reason of such factors, to constitute a visible perceptible section of the city.

*Historic property* means a structure, site, or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of its value to the City of Forsyth, for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of a past architectural style;
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the City of Forsyth;
- (4) It is a site of natural or esthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city.

*Local governing body* means the elected mayor and council of the City of Forsyth.

*Material change in appearance* means a change that will affect only the exterior architectural features of a historic property or of any structure, site or work of art within a historic district and may include any one or more of the following:

- (1) A reconstruction or alteration of the size, shape or façade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation;
- (4) A change in the location of advertising visible from the public right-of-way; or
- (5) The erection, alteration, restoration or removal of any buildings or other structures within a historic district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.

*Person* includes any natural, person, corporation or unincorporated association.  
(Ord. of 1-20-04, § 1)

### **Sec. 7-192. Creation of a historic preservation commission.**

- (a) There is hereby created a commission whose title shall be "Historic Preservation Commission of the City of Forsyth."

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- (b) The commission shall consist of five (5) members appointed by the mayor and council of the city. All members of the commission shall be residents of the city or property owners of the city and a majority shall be persons who have to the extent available demonstrated special interest, experience or education in history, architecture, architectural history, planning, archeology or related professions, or the preservation of historic resources. Members shall serve three-year terms and shall serve until a successor is appointed and takes such position. In order to achieve staggered terms, initial appointments shall be: one (1) member for one (1) year; two (2) members for two (2) years; and two (2) members for three (3) years. Members shall not receive a salary, although they shall be reimbursed for expenses.
- (c) Statement of commission's power: The historic preservation commission shall be authorized to: have all those powers and duties as generally set out in O.C.G.A. Section 44-10-25, including but not limited to the following:
- (1) Prepare an inventory of all property within the city having the potential for designation as historic property.
  - (2) Recommend to the city council specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts.
  - (3) Review application for certificates of appropriateness, and grant or deny same in accordance with this article.
  - (4) Recommend to the city council that the designation of any place, district, site, building, structure or work of art as a historic property or as a historic district be revoked or removed.
  - (5) Restore or preserve any historic properties acquired by the city;
  - (6) Promote the acquisition by the city of conservation easements, in accordance with O.C.G.A. Section 44-10-1 et seq;
  - (7) Conduct educational programs on historic properties located within the historic preservation jurisdiction;
  - (8) Make such investigations as the city council or the commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
  - (9) Seek out state and federal funds for historic preservation, and make recommendations to the city council concerning the most appropriate uses of any funds acquired;
  - (10) Consult with historic preservation experts in the Division of Historic Preservation of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.;

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- (11) Submit to the Division of Historic Preservation of the Department of Natural Resources or its successor a list of historic properties or historic districts designated as such pursuant to O.C.G.A. Section 44-10-26;
  - (12) Employ persons, if necessary, and with the city council's ordinance and zoning committee's prior consent, to carry out the responsibilities of the commission; and
  - (13) Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties; however, the commission shall not obligate the city without the city's ordinance and zoning committee's prior consent.
- (d) Commission's power to adopt rules and standards: The Commission shall adopt rules and standards for the transaction of its business; shall provide for the time and place of its regular meetings and shall have the power to call special meetings as needed; and shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members.
- (e) Conflict of interest: The commission members shall be subject to all conflict of interest laws set out under Georgia law and the City Code.
- (f) Records of commission meetings: A public record shall be kept of the minutes of the meeting of the commission, and its proceedings and actions, and the records of the commission shall be subject to the Georgia open records and open meetings laws.
- (Ord. of 1-20-04, § II)

### **Sec. 7-193. Recommendation and designation of historic districts and properties.**

- (a) Preliminary research by the commission: The Commission shall compile and collect information and conduct surveys of historical resources within the city. The commission shall present to the city council recommendations for historic districts and properties. Prior to the commission's recommendation of a historic district or historic property to the city council for designation, the commission shall prepare a report for nomination consisting of a physical description; a statement of the historical, cultural, architectural and/or esthetic significance; a map showing district boundaries and classification of individual properties therein, or showing boundaries of individual historic properties; and representative photographs.
- (b) Designation of a historic district. A historic district is an area defined in Section 7-191. Boundaries of the historic district shall be included in the separate ordinances designating certain districts and shall be shown on the official zoning map of the city. Individual properties within historic districts shall be classified as: contributing (contributes to the district); or non-contributing (does not contribute to the district).
- (c) Designation of a historic property district:
  - (1) Any ordinance designating any property as a historic property or any district as a historic district shall require that the designated property or district be shown on the official zoning map of the city and kept by the city as a public record to provide notice of such designation in addition to other notice requirements specified by this article.

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- (2) Any ordinance designating any property as a historic property shall describe each property to be designated, shall set forth the name or names of the owner or owners of the property, and shall require that a certificate of appropriateness be obtained from the historic preservation commission prior to any material change in appearance of the designated property.
- (3) Any ordinance designating any district as a historic district shall include a description of the boundaries of the district, shall list each property located therein, shall set forth the name or names of the owner or owners of each property, and shall require that a certificate of appropriateness be obtained from the historic preservation commission prior to any material change in appearance of any structure, site or work of art located within the designated historic district.
- (4) No ordinance designating any property as a historic property and no ordinance designating any district as a historic district or any amendments thereto may be adopted by the city council nor may any property be accepted or acquired as historic property by the city until the following procedural steps have been taken:
  - a. The commission shall make or cause to be made an investigation and shall report on the historic, cultural, architectural, or esthetic significance of each place, district, site, building, structure, or work of art proposed for designation or acquisition. This report shall be submitted to the Division of Historic Preservation of the Department of Natural Resources or its successor which will be allowed thirty (30) days to prepare written comments concerning the reports;
  - b. The commission and the city council shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published at least three (3) times in the newspaper of general circulation within the city, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All the notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing; and
  - c. Following the public hearing, the city council may adopt the ordinance as prepared, adopt the ordinance with any amendments it deems necessary, or reject the proposal.
- (d) Within thirty (30) days immediately following adoption of the ordinance, the owners and occupants of each designated historic property and the owners and occupants of each structure, site, or work of art located within a designated historic district shall be given written notification of such designation by the city council, which notice shall apprise said owners and occupants of the necessity for obtaining a certificate of appropriateness prior to undertaking any material change in the appearance of the historic property designation or within the historic district designated.

(Ord. of 1-20-04, § III)

### **Sec. 7-194. Application to preservation commission for certificate of appropriateness.**

- (a) *Approval of material change in appearance in historic districts or involving historic properties:* After the designation by ordinance of a historic property of a historic district, no material change in the

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appearance of such historic property, or of a contributing or non-contributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the commission. A building permit shall not be issued without a certificate of appropriateness.

- (b) *Submission of plans to commission:* An application for a certificate of appropriateness shall be accompanied by drawings, photographs, plans and documentation required by the commission.
- (c) *Interior alterations:* In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangement or use having no effect on exterior architectural features.
- (d) *Technical advice:* The commission shall have the power to seek technical advice from outside its members on any application.
- (e) *Public hearings on applications for certificates of appropriateness, notices, and right to be heard:*
  - (1) Prior to reviewing an application for a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected materially by the application and shall give the applicant and such owners an opportunity to be heard. The commission shall hold a public hearing concerning the application after notice in writing to such applicant and owners and after publication in the principal newspaper in the city in which legal advertisements appear, and such legal advertisement shall be published once a week in at least three consecutive weeks preceding the week of the hearing. The commission shall give the property owner and applicants an opportunity to be heard at the certificate of appropriateness hearing.
  - (2) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change in appearance would not have a substantial adverse effect on the esthetic, historical, or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance; architectural style, general design, arrangement, texture, and material of the architectural features involved; and the relationship thereof to the exterior architectural style and pertinent features of other structures in the immediate neighborhood.
  - (3) In its review of application for certificate of appropriateness, the commission shall not consider interior arrangement or uses having no effect on exterior architectural features.
  - (4) The commission shall approve or reject an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of a historic property or of a structure, site, or work of art located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission. Failure of the commission to act within the forty-five-day period shall constitute approval, and no other evidence of approval shall be needed.

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- (5) In the event the commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and the reasons therefore, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper, if it disapproves of the application submitted. The applicant, if he so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
  - (6) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative officer charged with issuing the building permits; and, in such a case, no building permit shall be issued.
  - (7) Where, by reason of unusual circumstances, the strict application of any provision of this article would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, the commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions or to interpret the meaning of the provision so as to relieve such difficulty or hardship; provided, however, that such variance, modification, or interpretation shall remain in harmony with the general purpose and intent of the provisions so that the architectural or historical integrity or character of the property shall be conserved or substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will in its judgment best fulfill the purpose of his article.
  - (8) The commission shall keep a record of all applications for certificates of appropriateness and of all its proceedings.
  - (9) Any person adversely affected by any determination made by the commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to city council; and the city council may approve, modify, and approve, or reject the determination made by the commission if the city council finds that the commission abused its discretion in reaching its decision. Any such appeal to the city council must be made within thirty (30) days of the decision of the commission, and come before the next city council meeting after the filing of the appeal with the city clerk at which time the appellant shall appear before city council and present any arguments or evidence it has of an abuse of the discretion of the commission, and the commission shall have a representative to present its reasoning in its decision. Appeals from the decisions of the city council may be taken to the superior court.
- (f) *Certificate of appropriateness void if construction not commended:* A certificate of appropriateness shall become void unless construction is commenced within six (6) months of its date of issuance. A certificate of appropriateness shall be issued for a period of eighteen (18) months and shall not be renewable.

(Ord. of 1-20-04, § IV)

### **Sec. 7-195. Maintenance of historic properties and building and zoning code provisions.**

- (a) Ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay, or to sustain the existing form, and that does not

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involve a material change in design, material, or outer appearance thereof, does not require a certificate of appropriateness.

- (b) Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The Commission shall be charged with notifying the city building official regarding deterioration of the property for an investigation under any city codes with regard to dilapidated structures.
- (c) Nothing in this article shall be construed as to exempt property owners from complying with existing city building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.

(Ord. of 1-20-04, § V)

### **Sec. 7-196. Penalty provisions.**

Violations of any provisions of this article shall be punished in the same manner as provided for punishment of violations of validly enacted ordinances of the city.

(Ord. of 1-20-04, § VI)