

Chapter 7

BUILDINGS AND BUILDING REGULATIONS

Art. I. In General, §§ 7-1—7-150

Art. II. Derelict and Blighted Property, §§ 7-151—7-190

Art. III. Historic Preservation, §§ 7-191—7-196

ARTICLE I. IN GENERAL

Sec. 7-1. Building and construction codes.

The following technical building and construction codes are adopted by reference and may be amended for later editions as required by the Georgia Uniform Codes Act, O.C.G.A. § 8-2-25:

- (a) International Building Code (International Code Congress);
- (b) National Electrical Code;
- (c) International Fuel Gas Code;
- (d) International Mechanical Code;
- (e) International Plumbing Code;
- (f) International Residential Code;
- (g) International Energy Conservation Code;
- (h) International Fire Code;
- (i) International Property Maintenance Code;
- (j) International Existing Buildings Code.

Sec. 7-2. Penalty.

Any person charged with the violation of any provision of any such codes, or of this ordinance, upon conviction, shall be subject to penalty as provided in Section 1-14 of this code.

Sec. 7-3. Permits.

- (a) The building developer must obtain a permit from the City Manager, or his or her designee for the new construction of any building or structure within the city. The City Manager, or his or her designee shall devise an application with reasonable design and workmanship standards to be met to receive such a permit. The cost of such a permit will be determined by resolution of the Forsyth City Council.
- (b) A permit must be obtained from the City Manager, or his or her designee prior to the demolition of any building or structure within the city. The City Manager, or his or her designee shall devise an application with reasonable design and workmanship standards to be met to receive such a permit. The cost of such a permit will be determined by resolution of the Forsyth City Council.
- (c) A permit must be obtained from the City Manager, or his or her designee prior to installation of any new electrical wiring or altering of any existing electrical wiring, when the cost of such work exceeds \$25.00. The City Manager, or his or her designee shall devise an application with reasonable design and workmanship standards to be met to receive such a permit. The cost of such a permit will be determined by resolution of the Forsyth City Council.

Sec. 7-4. Inspection and approval of work.

All work for which a permit is required by this code chapter shall be subject to inspection and approval by the designee of the City Manager. When such work is ready for inspection, the holder of the permit shall notify the designee of the City Manager, who shall make the inspection and inform the permit holder of defects, if any, in the installation, construction, or demolition. If any defects are found, the permit holder shall correct the same and notify the designee of the City Manager that the project 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 by resolution.

Sec. 7-5. Refusal or disconnection of electrical service.

- (a) The designee of the City Manager 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.
- (b) The designee of the City Manager shall have the authority to condemn any electrical wiring, equipment, or appliance in the city which, in his or her opinion, is unsafe. After three working days' notice, the designee of the City Manager shall order the electrical current disconnected from such wiring, equipment, or appliance.
- (c) In the event the owner or other person in possession of property involved in an action taken by the designee of the City Manager under this section is dissatisfied with such action, he or she shall have the right to appeal the decision of the designee of the City Manager to the City Council. Such appeal shall be made by giving written notice to the City Manager, within four working days after the action of the designee of the City Manager, of 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 working days after such meeting.

Sec. 7-6. Certification required; exception.

- (a) No person shall do any electrical wiring, repairing or construction within the limits of the city, unless he or she is certified to work as an electrician in the State of Georgia.
- (b) This section shall not apply to a person wiring property which belongs to him personally.

Sec. 7-7. House moving.

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 10 feet wide or 12 feet high, without first securing a permit for such activity from the designee of the City Manager. The City Manager, or his or her designee shall provide an application for such permit requiring information that is reasonably pertinent to such an action. The fee for such a permit shall be set by resolution of the Forsyth City Council.

Secs. 7-8—7-150. Reserved.

ARTICLE II. DERELICT AND BLIGHTED PROPERTY

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

Sec. 7-152. Definitions.

As used in Article II, the following terms shall have the meanings defined below:

- (a) *Abandon.* To stop the use of property or the occupancy of a building for 12 months or more.
- (b) *Applicable codes.* 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; the minimum standard building codes provided in O.C.G.A. Title 8, Chapter 2; and Chapter 7 of this code.

- (c) *Blighted property, blighted, or blight.* Any urbanized or developed property which is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property and presents two or more of the following conditions:
- (1) Uninhabitable, unsafe, or abandoned structure;
 - (2) Inadequate provisions for ventilation, light, air, or sanitation;
 - (3) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe officially declared as a state of emergency by the Governor. This section of the definition shall not apply to property unless the city 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;
 - (4) A site identified by the federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. § 9601, et seq., or having environmental contamination to an extent that requires remedial investigation or a feasibility study;
 - (5) Repeated illegal activity on the individual property of which the property owner knew or should have reasonably known; or
 - (6) The maintenance of the property is in violation of state, county, or municipal codes for at least one year after written notice of the code violation to its owner.

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

- (d) *Building inspector.* A certified inspector possessing the requisite qualifications to determine minimal code compliance.
- (e) *Closing.* Causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.
- (f) *Community redevelopment.* Any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area, or portion thereof designated through an urban redevelopment plan, or through local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.
- (g) *Drug crime.* An act which is violation of O.C.G.A. Title 16, Chapter 13, Article 2, known as the "Georgia Controlled Substances Act".
- (h) *Dwellings, buildings, or structures.* Anything built, constructed, erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground, or which is attached to something having permanent location on the ground. For purposes of this ordinance, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some

permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Walls and fences are considered structures, but are subject to setback regulations for walls and fences rather than principal or accessory building setback regulations. Driveways and parking lots are not considered structures.

- (i) *Graffiti*. 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.
- (j) *Interested party*.:
 - (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.
- (k) *Millage or millage rate*. 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.
- (l) *Owner*. The holder of the title in fee simple, and every mortgagee of record.
- (m) *Public authority*. Any member of the governing authority, or any officer 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.
- (n) *Public officer*. The City Manager, who is authorized to exercise the powers prescribed by article, and any officer or employee of the city to whom he or she delegates such authority.
- (o) *Repair*. Altering or improving a dwelling, building, or structure 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.
- (p) *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. Declaration of public nuisance.

Every dwelling, building, or structure within the city which meets any of the following stipulations is hereby declared a public nuisance:

- (a) Constructed or maintained in violation of applicable codes in force within the city;
- (b) Unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces;
- (c) Poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm, or another natural catastrophe;
- (d) Vacant and used in the commission of drug crimes;
- (e) 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;
- (f) Otherwise constitutes an endangerment to the public health or safety because of unsanitary or unsafe conditions;
- (g) Any property on which any activity, or land use in violation of applicable laws and ordinances is being regularly conducted.

Sec. 7-154. Powers of City Manager or his or her designee.

- (a) In carrying out duties pursuant to this article, the City Manager, or his or her designee 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 that causes the least possible inconvenience; however, the public officer shall not enter any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases, where consent to entry is denied after reasonable request, the public officer may apply to the municipal court for an administrative search warrant upon showing probable cause that a violation exists.
 - (2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys.
 - (3) To appoint and assign the duties of such officers and employees of the city as he or she deems necessary to carry out the purposes of this article; and
 - (4) To delegate any of his or her functions and powers under this article to such officers, employees, and agents as he or she may designate.
- (b) In addition to the procedures set forth in this article, the City Manager or his or her designee 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. 7-155. 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 or her findings. Such officer shall be guided in his investigation by documenting conditions, which include, but are not limited to:
- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair by failure to conform to applicable codes and ordinances;
 - (5) Structural defects which render the structure unsafe for human habitation or occupancy;
 - (6) Uncleanliness; or
 - (7) The presence of graffiti which is visible from adjoining public or private property.
- (b) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall file a complaint in rem in the municipal court of the city against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court at a certain date and time at a place within the city. Such hearing shall be held not less than 15 calendar days, nor more than 45 calendar 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 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.
- (d) For purposes of this section, the court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building or structure shall not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided by state law, 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.
- (e) 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 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."
- (f) 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 all liability resulting from or

occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials.

- (g) 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.
- (h) The lien provided for in subsection (g) 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 the 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 the Superior Court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the Clerk of Superior Court, the public officer shall, within 90 days of the completion of repairs, demolition or closure, forward a copy of the order and a final statement of costs to the county tax commissioner.
- (i) The amount of the lien shall be collected in conjunction with the collection of ad valorem taxes on the property as if it were a real property ad valorem tax by the designee of the City Council, who may be the Monroe County Tax Commissioner, using all methods available for collecting real property ad valorem taxes; 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.
- (j) The designee of the City Council shall remit the amount collected to the City of Forsyth and may retain an amount equal to the cost of administering collection of the lien.
- (k) 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.
- (l) 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. 7-156. Service of complaints or orders upon owners and parties in interest.

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

- (1) In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure, or property within three business days of filing of the complaint and at least 14 days prior to the date of the hearing.
 - (2) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint and summons by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are readily ascertainable. Copies of the complaint and summons shall also be mailed by first-class mail to the property address to the attention of the occupants, if any;
 - (3) For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two consecutive weeks prior to the hearing; and
 - (4) A notice of lis pendens shall be filed in the office of the Clerk of the Superior Court 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. 7-157. General cleanliness of premises

The owner and occupant of property within the city shall each be independently responsible for keeping the premises, including all buildings thereon and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes, trash, rubbish and other offensive materials. A violation of this section shall be punished, upon conviction, in accordance with Section 1-14 of this code.

Sec. 7-158. Disorderly house.

- (a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.
- (b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and

annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.

Sec. 7-159. Urban redevelopment area, community redevelopment tax incentive program.

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 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. 7-160. Identification of blighted property.

(a) For a parcel of real property to be officially designated as maintained in a blighted condition and subject to the increased taxation levied in Section 7-161 of this code, the following steps must be completed:

(1) An inspection must be performed on the parcel of real property. For an inspection to be performed, either:

- 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 based on the criteria delineated in this ordinance, or
- b. The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full inspection should be conducted to determine if that parcel of property meets the criteria set out in this article for designation as being maintained in a blighted condition.

(2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the City Manager. Where feasible, photographs of the conditions found to exist on the property on the date of inspection should 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 designee of the City Manager qualified for such activities.

(3) Following completion of the inspection report, the public officer shall make a determination, in writing, if a property is maintained in a blighted condition and thus subject to increased taxation.

(4) If the public officer determines that the real property at issue is being maintained in a blighted

condition, he or she shall cause a written notice of this determination 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 on the property. Where through reasonable diligence the public officer determines that the real property at issue has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the persons(s) known or reasonably believed to own the property or be chargeable with payment for ad valorem taxes on the property.

- (b) The written notice of determination shall notify relevant persons that the real property at issue has been identified as being maintained in a blighted condition and shall advise such person(s) of the hours and location at which such person(s) may inspect and copy the determination and any supporting documentation. Persons served a notice of determination under this section shall have 30 calendar days from the receipt of the notice to request a hearing before the Municipal Court. Written request for such a hearing shall be filed with the City Manager or his or her designee and shall be date stamped upon receipt. Upon receipt of a written request for a hearing, the City Manager, or his or her designee shall notify the Municipal Court and any staff who participated in the inspection of the property at issue or prepared the inspection report.
- (c) Within 30 calendar days of the receipt of a request for hearing by the City Manager, or his or her designee, the Clerk of the Municipal Court shall set a date, time, and location for the hearing and shall give at least 10 business days' notice to the person(s) requesting the hearing and any staff who participated in the inspection of the property at issue or prepared the inspection report. Notice of scheduled hearings shall be published as a legal advertisement in the legal organ of Monroe County, at least five calendar 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 designee of the City Manager shall have the burden of demonstrating by a preponderance of evidence that the subject property is maintained in a blighted condition. The Municipal Court judge shall cause a record of the evidence submitted at the hearing to be maintained. Upon hearing from the designee of the City Manager and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the judge of the 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 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 be instructed to 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 designee of the City Manager may petition the Superior Court of Monroe County for a writ of certiorari within 30 calendar days of issuance of the court's written determination.

Sec. 7-161. Ad valorem tax increase on blighted property.

- (a) There is hereby levied an increased ad valorem tax by applying a factor of seven to the millage rate on all real property within the city which has been officially identified by the designee of the City Manager as maintained in a blighted condition. Real property on which there is a house that is being occupied as the primary residence of one or more persons shall not be subject to official identification as being maintained in a blighted condition, and shall not be subject to the increased level of taxation.
- (b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.

- (c) Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the City Manager, or his or her designee and use 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 buildings or structures.

Sec. 7-162. Remediation or redevelopment.

- (a) A person 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 designee of the City Manager 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 Manager, or his or her designee which addresses conditions of blight found to exist on or within the property, including compliance with all applicable codes; or
 - (2) Completion of work required under a court order entered in any proceeding brought pursuant to this code chapter.
- (b) 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 City Manager, or his or her designee and shall contain the following:
 - (1) The plan shall be consistent with the city's comprehensive plan and all laws and ordinances governing the subject property. Additionally, the plan shall conform to any urban redevelopment plan adopted for the area within which the property lies.
 - (2) The plan shall set forth the requirements for repair, closure, demolition, or restoration of existing structures in reasonable detail in accordance with relevant 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 identify verifiable and feasible funding sources which will be used to complete the work required.
 - (5) The plan shall contain a timetable for completion of required work.
 - (6) Any outstanding ad valorem taxes—including state, school, county, city, and tax pursuant to this article, as well as governmental liens due and payable on the property, must be satisfied in full.
- (c) Before action on a petition to lift the designation, the designee of the City Manager 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 properly performed to applicable codes, 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 designee of the City Manager shall issue a

written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be caused to be served by the designee of the City Manager upon relevant persons and upon the Tax Commissioner of Monroe County. If the property does not pass the inspection, then the blight designation shall not be lifted. The designee of the City Manager shall provide notice to the Tax Commissioner of Monroe County identifying the street address and tax map and parcel number, as assigned by the Monroe County Tax Assessor's Office. The designee of the City Manager shall cooperate with the Tax Commissioner to ensure accurate tax billing of those properties subject to increased or reduce ad valorem taxation under this article.

Sec. 7-163. Decrease of tax rate.

- (a) Real property which has had its designation as maintained in a blighted condition removed by the city, as provided in 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, or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in city ad valorem taxes for more than four successive years.
- (b) 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 for redevelopment or remediation activities.

Sec. 7-164. Violations; enforcement penalties.

In addition to any liens levied as a result of the enforcement of this article, any person who violates this article, upon conviction, shall be penalized according to Section 1-14 of this code.

Secs. 7-175 – 7-190. Reserved.

ARTICLE III. HISTORIC PRESERVATION

Sec. 7-191. Definitions.

As used in this article, the term:

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. "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. 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. Such a document must be obtained from the Historic Preservation Commission before a material change may be undertaken.

Exterior architectural features. 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. All those aspects of the landscape or the development of a site which affect the historic character of the property.

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

- (a) Have special character or special historical or aesthetic interest of value;
- (b) 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
- (c) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city.

Historic property. 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:

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

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

Material change in appearance. 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:

- (a) 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;
- (b) Demolition or relocation of a historic structure;
- (c) Commencement of excavation;
- (d) A change in the location of advertising visible from the public right-of-way; or
- (e) 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. Any natural, person, corporation or unincorporated association.

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.”
- (b) The Commission shall consist of seven 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. To achieve staggered terms, initial appointments shall be: two members for one year; three members for two years; and two members for three 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.;

- (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 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 Council'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.

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.
 - (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 aesthetic 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 30 calendar 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 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 10 nor more than 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 30 calendar 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.

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 or a historic district, no material change in the 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 aesthetic, 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 45 calendar 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 45-day period shall constitute approval, and no other evidence of approval shall be needed.
 - (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 calendar 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 commenced:* A certificate of appropriateness shall become void unless construction is commenced within six months of its date of issuance. A certificate of appropriateness shall be issued for a period of 18 months and shall not be renewable.

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 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 regarding 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.

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 other ordinances of the city.