

Chapter 18 - NUISANCES¹¹

ARTICLE I. - IN GENERAL

Sec. 18-1. - Purpose and findings.

The governing authority of the City of Tucker finds that nuisances are such activities and conditions that cause a demonstrable adverse impact on the community. These activities and conditions may be associated with illegal criminal activity that has also been proven to have a demonstrable adverse impact on community residences and results in neighborhood blight. The city finds that there is a substantial need directly related to the public health, safety and general welfare of its citizens to comprehensively address these concerns through the adoption of the following regulations. The purpose and intent of the governing authority of the City of Tucker in enacting this chapter are as follows:

- (1) To state that it is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction of this city to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the jurisdiction, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinance;
- (2) To preserve the value of property and prevent neighborhood blight that arises from poorly maintained property;
- (3) To maintain and promote an attractive residential area and commercial area by requiring that dilapidated property be repaired or removed;
- (4) To maintain for the city's residents, workers and visitors an aesthetically attractive environment and to advance the aesthetic interest of the city;
- (5) To protect the health, welfare and safety of the citizens of the City of Tucker by the removal of both criminal perpetrators and the housing blight on the community;
- (6) To require owners of real property to keep their property in compliance with building, safety and fire codes to minimize the occurrence of illegal criminal activity therein;
- (7) To promote the safety of its citizens, to preserve property values, to provide for the convenience and enjoyment of public areas, to attract tourists, settlers and industry, to serve the public health, safety and aesthetics, to advance the general prosperity of the community and to serve the general welfare; and
- (8) To provide for the enforcement of the provisions of this chapter.

Sec. 18-2. - Definitions.

[For the purposes of this chapter, the following words, terms and phrases shall have the meanings set out in this section, unless the context indicates otherwise:]

Closing means securing and causing a dwelling, building or structure to be vacated.

Drug crime means an act which is a violation of O.C.G.A. Tit. 16, Ch. 13, art. 2, known as the "Georgia Controlled Substances Act," as may hereinafter be amended.

Dwelling, building, or structure 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, appurtenances belonging thereto or usually enjoyed therewith and also includes any portion of

the public way that abuts the parcel of property when it is used in conjunction with the abutting property for the commission of nuisance activity described in section 18-3 of this chapter. The term "dwelling, building, or structure" shall not mean or include any farm, and 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.

Interest holder. See *Party-in-interest*, below.

Owner means the holder of the title in fee simple and every mortgagee of record including any person who, alone or jointly or severally with others:

- (1) Has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, prime tenant, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as the owner.

Party-in-interest or *interest holder* means an individual, association, entity or corporation, executor, administrator, guardian, or trustee, that has a legal interest in or possession of a dwelling, building, or structure.

Public officer means the chief of police or his/her designee.

Public authority means the mayor and city council, the director of the department of public works, the fire chief or his or her designee, or the chief of police or his or her designee.

Repair means closing a dwelling, building or structure or 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.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 18-3. - Drug and illegal gambling houses, houses of prostitution and other disorderly houses.

- (a) Any dwelling, building, or structure used for prostitution, illegal gambling, or in connection with the commission of drug crimes is hereby declared to be a public nuisance. However, consistent with the public policy of the State of Georgia, this chapter shall not apply to any publicly owned cultural facility pursuant to O.C.G.A. § 41-1-8, as may hereinafter be amended.
- (b) It is the affirmative duty of the owner of every dwelling, building, or structure within the City of Tucker to construct and maintain such dwelling, building, or structure in conformance with applicable codes in the Official Code of Georgia, and all ordinances in force within the City of Tucker.
- (c) An owner or party-in-interest of a dwelling, building or structure shall not be subject to proceedings described in subsections (e)(1), (e)(2), (f), (h), (i) or (j) of this section if it is established that the owner or party-in-interest:
 - (1) Did not know and could not reasonably have known of the public nuisance described in subsection (a), above, occurring on the subject premises; and
 - (2) Does not hold the subject property for the benefit of or as nominee for any person whose conduct gave rise to the public nuisance described in subsection (a) above, and, if the owner or party-in-interest acquired the interest through any such person, the owner or party-in-interest acquired it as a bona fide purchaser for value without knowingly taking part in the public nuisance; or

- (3) Acquired ownership or legal interest after the completion of the public nuisance giving rise to proceedings under this chapter or at the time the title was acquired, was reasonably without cause to believe that the dwelling, building or structure was subject to be deemed a public nuisance or likely to become subject to being deemed a public nuisance under this chapter.
- (d) The public officer shall have all powers to carry out and effectuate the purpose of this chapter as set forth in O.C.G.A. § 41-2-11, as may hereinafter be amended.
- (e) The public officer shall make an investigation or inspection of a dwelling, building, or structure whenever a charge is made that any dwelling, building, or structure 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 activities described in subsection (a) above; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The charge must be made in writing to the public officer by a public authority or by at least five (5) residents of the City of Tucker if the dwelling, building or structure in question is located in the city. If the officer's investigation or inspection identifies that any dwelling, building, or structure 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 activities described in subsection (a) above; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may both:
- (1) Issue a citation for violation of any applicable state minimum standard codes, building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance. The citation shall notify the owner and parties in interest that a hearing will be held before a court of competent jurisdiction at a date and time certain; and
 - (2) Issue a complaint in rem 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 owner and parties in interest in such dwelling, building, or structure. Service of the complaint shall be in the manner as mandated by O.C.G.A. § 41-2-12, as may hereinafter be amended. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; 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 owner and parties in interest that a hearing will be held before a court of competent jurisdiction at a date and time certain and at a place within the city where the dwelling, building or structure is located. Such hearing shall be held not less than fifteen (15) days nor more than forty-five (45) days after the filing of said complaint in the proper court. The owner and parties in interest 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.
- (f) After notice and a hearing conducted pursuant to subsection (e)(1) or (e)(2) above, if a court of competent jurisdiction 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 activities described in subsection (a); or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall assess any joint and several fine against the owner and all parties in interest of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) for each offense. Each day that a violation of this section continues shall be considered a separate and distinct offense. In hearings conducted pursuant to subsection (e)(2) above, the court shall also state in writing findings of fact in support of such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order of abatement:
- (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, the order of abatement shall require 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, shall require the taking of reasonable measures designed to prevent the recurrence of the nuisance activity described in subsection (a) in light of the magnitude of the harm caused by the nuisance. Those measures may include, but are not limited to, making improvements to real estate and installing lighting to enhance security, the hiring of licensed and insured security personnel, the hiring of a receiver, the initiation and execution of eviction proceedings against tenants engaged in illegal activity; 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.
 - (3) 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. 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 Georgia 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 city.
- (g) The court may authorize the issuance of ex parte administrative search warrants reasonably calculated to determine whether the nuisance has been abated or whether the order of the court has been obeyed.
- (h) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. 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 illegal activities 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."
- (i) 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.
- (1) The City of Tucker, the public officer and the mayor and city council 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; and
 - (2) 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.
- (j) The lien provided for in subsection (i)(2), above, 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 the city where the real property is located and shall relate back to the date of the filing of the lis pendens notice required under O.C.G.A. § 41-2-12(g), as amended. The clerk of superior court shall record and index such certified copy of the order in the deed records of the city 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 forward a copy of the order and a final statement of costs to the city tax commissioner. It shall be the duty of the city 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. Tit. 48, Ch. 4 ; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires twelve (12) months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the mayor and city council. Thirty (30) days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.

- (k) The mayor and city council may waive and release any lien imposed on property pursuant to subsection (i)(2) of this section if the owner of such property enters into a contract with the City of Tucker agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property; demonstrates the financial means to accomplish such rehabilitation; fully completes the rehabilitation; and fulfills all terms of the contract.
- (l) The mayor and city council may appropriate revenue as necessary and may accept and apply grants or donations in carrying out the provisions of this chapter.
- (m) Where the abatement action does not commence in the Superior Court of DeKalb County, 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 of DeKalb County under O.C.G.A. § 5-3-29, as may hereinafter be amended. Notice of an appeal shall act as a supersedeas.

Sec. 18-4. - Reserved.

ARTICLE III. - PROPERTY MAINTENANCE

DIVISION 1. - GENERALLY

Sec. 18-5. - Definitions.

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

Accessory structure means a structure detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use. "Accessory structure" includes, but is not limited to, any portable, demountable or permanent enclosure, shade structure and carport or garage.

Alter or alteration means any change or modification in construction.

Approved means approved by the city.

Basement means a portion of a building located partly underground, but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Bathroom means a room containing plumbing fixtures including a bathtub or shower.

Bedroom means any room or space used or intended to be used for sleeping purposes.

Boarding house means a building containing one (1) or more dwelling units but not more than twenty (20) dwelling units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

Building means 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.

Cellar means that portion of a building having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Chief of police means the chief of the city police department or designee.

City means City of Tucker, Georgia.

Dangerous structure means any of the following:

- (1) An abandoned or vacant structure that constitutes a hazard to the health or safety of persons who may come on or near the property on which the structure is located and which is not fenced in or otherwise protected to reasonably prohibit public access thereto.
- (2) A structure that is severely damaged by fire, storm or other natural or manmade causes and which has remained in such damaged condition for a period of six (6) months or more and which constitutes a hazard to the health or safety of persons who may come on or near the property on which it is located.
- (3) A structure that is in a condition of being partially constructed and construction thereon has ceased for a period of twelve (12) months or more and which constitutes a hazard to the health or safety of persons who may come on or near the property on which it is located.
- (4) Any combination of the foregoing that would constitute a hazard to the safety and welfare of any person living on property located adjacent thereto.

Department means the police department or such other department as may hereafter be designated to enforce the provisions of this article.

Director means the chief of police or designee. If a department other than the police department is designated to enforce this article the term means the director of that department or designee.

Domestic sewage disposal system means a sewage disposal system designated or intended to dispose of domestic sewage that includes byproducts of domestic activities.

Dwelling means any structure which is wholly or partly used or intended to be used for living or sleeping by human occupants, whether or not such structure is occupied or vacant.

Dwelling unit means one (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single-family maintaining a household.

Egress means a way to exit from a structure or dwelling unit.

Exterior property means open space on the premises and on any adjoining property under the control of owners or operators of such premises.

Extermination means the control or eradication of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

Family means a group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than four (4) persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. This definition shall specifically include four (4) or fewer mentally handicapped, developmentally disabled persons, or other handicapped persons, as defined in the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., as amended, living as a housekeeping unit and otherwise meeting the definition of "family" herein.

Floor area means the gross heated horizontal areas of the floors of a building, exclusive of open porches and garages, measured from the interior face of the exterior walls of the building.

Garbage means putrescible animal and vegetable wastes resulting from the preparation, cooking and serving of food and the storage of produce, tin cans, glass containers and newspapers.

Habitable room means a space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Heated water means water that has been heated sufficiently to ensure a temperature of not less than one hundred twenty (120) degrees Fahrenheit at the outlets.

Infestation means the presence of insects, rodents, vermin or other pests within or contiguous to a structure or premises.

Inoperable vehicle means:

- (1) A vehicle which is incapable of operation or use upon a highway; or
- (2) A vehicle that has no resale value except as a source of parts or scrap; or
- (3) Any wrecked or non-operable automobile, truck or other vehicle.

Inspection warrant means a warrant authorizing a search or inspection of private property where such search or inspection is necessary for the enforcement of any of the provisions of this article.

Lavatory means a washbowl or basin permanently installed with running hot and cold water.

Maintenance means the act of keeping buildings, structures and equipment in a proper condition so as to prevent their decline or failure.

Major overhaul means the repair, alteration or restoration of a motor vehicle which involves the removal of the paint or major parts of or the disassembly of major parts of a motor vehicle, including, without limitation, the following major parts: engine, body, interior seats, interior equipment necessary for the operation of the vehicle, and/or drive train.

Multiple dwelling means any dwelling which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of more than two (2) families living independently of each other, each doing its own cooking in such dwelling. "Multiple dwelling" includes a flat or apartment.

Occupant means any person, over one (1) year of age, living, sleeping, cooking, eating or having actual possession of a dwelling unit.

Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units are let.

Owner means any person, firm, corporation or entity who, alone or jointly or severally with others:

- (1) Has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, prime tenant, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article to the same extent as the owner.

Party-in-interest or *interest holder* means an individual, association, entity or corporation, executor, administrator, guardian, or trustee, that has a legal interest in or possession of a dwelling, building, or structure.

Plumbing means the practice, materials and fixtures used in the installation, repair, extension and alteration of all piping fixtures, appliances and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities, the venting systems and the public or private water supply systems within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, repair, extension or alteration of stormwater, liquid waste or sewerage and water supply systems of any premises to their connection with a point of public disposal or other approved terminal.

Premises means a lot, plot or parcel of land including dwellings, buildings, or structures thereon.

Proper or properly means in accordance with the general provisions of this article and in accordance with standards of cleanliness, stability and safety as required by this article.

Property means land and whatever is erected or growing upon or affixed thereto.

Public authority means mayor and city council, the director of the department of public works, the fire chief or his or her designee, or the chief of police or his or her designee.

Reckless means the conscious disregard of a substantial and unjustifiable risk that an act or omission will cause harm or endanger the safety of another person and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.

Repair means the replacement of existing work with approved material of a similar kind to that used in the existing work, not including additional work that would change the structural safety of the building or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of this article.

Rooming house means boarding house.

Rubbish means combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches or trunks, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust or other similar materials.

Safety means the condition of being free from danger and hazards that may cause accidents or disease.

Sanitary sewage disposal system means a sewage disposal system designed and intended to dispose of sanitary and domestic wastes including all liquid and solid wastes from the flush toilet, lavatory, bathtub or shower and clothes washing machine.

Stairway means one (1) or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one (1) story to another in a building or structure.

Structure means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

Trash means putrescible solid wastes, consisting of combustible and noncombustible materials such as, but not limited to, paper, cardboard, yard clippings, wood, glass, crockery and similar materials.

Toilet means a bowl flushed with water under pressure with a water-sealed trap above the floor level, used primarily for human elimination.

Townhouse means one (1) of a row of houses connected by common sidewalls.

Unfit for human habitation means designation of dwellings or dwelling units as so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that such create a serious hazard to the health or safety or which lack illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or the public.

Unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not necessarily for cooking or eating purposes.

Unsanitary condition means the presence of a condition that is conducive to the spreading of disease or illness, or is conducive to harboring insects, rodents or other pests.

Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

Water and sewer system includes private wells, public water utility mains, private septic tanks, sewage disposal systems and public sewer mains.

Water closet means a room containing a toilet or urinal but not a bathtub or shower.

Weeds means vegetative growth including but not limited to kudzu, poison ivy, jimsonweed, burdock, ragweed, thistle, cocklebur, dandelion, plants of obnoxious odors, or other similar unsightly vegetative growths. This term shall not include cultivated flowers, fruits and vegetables and gardens.

Workmanlike condition of maintenance and repair means that such maintenance and repair shall be made in a reasonably skillful manner and in accordance with the requirements of all applicable manufacturer's specifications, ordinances and law.

(Ord. No. 33-03, Pt. I, 12-23-03)

Sec. 18-6. - Purpose and findings.

- (a) The governing authority finds that there is a need to establish minimum standards governing the use, occupancy, condition and maintenance of property, dwellings, buildings, and structures. Left completely unregulated, the failure to properly maintain property can become a threat to public safety and a detriment to property values and to the city's general public welfare, as well as create an aesthetic nuisance. The city finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the following regulations. The purpose and intent of the governing authority of the City of Tucker in enacting this article is as follows:
- (1) To protect the health, safety and general welfare of the citizens of the City of Tucker, and to implement the policies and objectives of a comprehensive property management plan throughout the city through the enactment of a comprehensive set of regulations governing property maintenance in the City of Tucker;
 - (2) To preserve the value of property and maintain for the city's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interest of the city;
 - (3) To establish minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings, buildings and structures and surrounding premises safe, sanitary and fit for human use and habitation;
 - (4) To establish minimum standards governing the use, occupancy, condition and maintenance of property, dwellings, buildings, and structures;
 - (5) To promote and protect the public health and safety through the control of weeds and grass which constitute a fire hazard and a public nuisance;
 - (6) To fix certain responsibilities and duties of owners, operators and occupants of dwellings;
 - (7) To provide for the condemnation of buildings and structures deemed unfit for human use and habitation and provide for removal of such buildings at public expense after hearing;
 - (8) To authorize the inspection of dwellings and structures; and
 - (9) To prohibit property owners from maintaining property in a manner not expressly authorized by this article, to provide for the maintenance of property, and to provide for the enforcement of the provisions of this article.

Sec. 18-7. - Scope and application.

- (a) Every building, dwelling or structure in the city, whether occupied or vacant, shall conform to the requirements of this article, regardless of when such building may have been constructed, altered or repaired. However, when a building, dwelling or structure is vacant, the owner shall only maintain the exterior of the property in compliance with this article, ensure the interior has been cleaned of trash, rubbish and debris, and secure the building, dwelling or structure in a closed and inaccessible manner until occupied. Any building, dwelling or structure that is vacant and closed shall be boarded to minimum specifications as determined by the chief of police. Owners shall conform their property to

the full requirements of this article prior to the occupation of any vacant property. Where applicable, this article also governs the condition of unimproved property.

- (b) Repairs and alterations in restoring a building to its condition previous to damage or deterioration, or altering such building in conformity with this article in such manners as will not extend or increase an existing nonconformity or hazard may be made with approved materials similar in kind to those of which such building is constructed and are authorized by law.
- (c) Where repairs, alterations, construction, maintenance and work required to meet the provisions of this article are regulated and/or required to be permitted by other ordinances, such repairs, alterations, construction, maintenance and work shall comply with all provisions of this Code. In the event of a conflict between two (2) regulations, the regulation most recently enacted shall govern.
- (d) The provisions of this Code shall not be mandatory for existing buildings, dwellings or structures designated by the state or the city as historic buildings when such buildings, dwellings or structures are judged by the public authority to be safe and in the public interest of health, safety and welfare.

Sec. 18-8. - Vehicles.

- (a) *Unregistered and unlicensed motor vehicles.* No person shall park or permit any other person to park any motor vehicle, except a motor vehicle parked in an enclosed building, on any premises in a residential district, if the vehicle:
 - (1) Is unregistered; or
 - (2) Has expired registration; or
 - (3) Does not have a lawful license plate or lawful temporary tag, which plate or tag is currently registered to that vehicle displayed thereon.
- (b) *Inoperable vehicles.* No owner or occupant of any premises shall park any inoperable vehicle or permit any other person to park any inoperable vehicle on the owner's or occupant's premises for more than seventy-two (72) hours, unless the inoperable vehicle is parked in an enclosed structure. This section does not apply to premises for which the zoning code permits the storage of junk vehicles (as defined by section 27-31) outside an enclosed building. No person shall park any inoperable vehicle upon any public street, alley, or other public property. A court of competent jurisdiction shall have the authority, upon conviction of a violation of this subsection, to order the owner and/or occupant of the premises to replace ground cover beneath the inoperable vehicle, if appropriate.
- (c) *Major overhaul.*
 - (1) No person shall perform a major overhaul of any vehicle or permit any other person to perform a major overhaul of any vehicle on premises in a residential zone unless:
 - a. The person performing the overhaul is the occupant of the premises;
 - b. The person performing the overhaul is the owner of the vehicle; and
 - c. The work is done inside a garage or enclosed structure; however, the major overhaul of such a vehicle on premises in a residential zone must be completed within three (3) days if such overhaul takes place outside of a garage or enclosed structure.
 - (2) No person shall perform a major overhaul of any vehicle or permit any other person to perform a major overhaul of any vehicle on any premises in a business, commercial or industrial district, unless the overhaul is performed at an approved automobile sales or repair establishment.
- (d) *Storage of vehicles used for recreational purposes.* No person shall park or permit any other person to park any unlicensed, unregistered, inoperable or junk vehicles which are used for recreation purposes including, but not limited to, boats, snowmobiles, travel trailers, cargo trailers, campers, all-terrain vehicles and motor homes, on premises in a residential district, unless they are stored within an enclosed building. No person may park or permit any other person to park a vehicle used for recreation purposes except in the manner described in section 27-784, as amended.

- (e) *Storage of machinery, implements and equipment.* No person shall park or permit any other person to park any machinery, implements or equipment designed for use in agriculture, construction or other commercial enterprise, unless the machinery, implement or equipment is parked in an enclosed garage. This requirement does not apply to single parcels zoned for commercial or industrial purposes or to single agricultural parcels greater than five (5) acres. This requirement does not apply to such machinery, implements or equipment that is being used in construction of structures or dwellings so long as such machinery, implements or equipment is removed after fifteen (15) days.

Sec. 18-9. - Vegetation and debris.

- (a) *Vegetation.* There shall be no dead or hazardous trees, shrubs, ground cover or weeds likely to harbor vermin or insects, restrict or impede access to or public use of adjacent sidewalks and streets, obstruct traffic-control signs and devices and fire hydrants, or pose a risk of physical injury to the public.
- (b) *Debris.* There shall not be maintained on a property for more than seven (7) calendar days any used or damaged lumber, junk, trash, debris, scrap metal, concrete, sand, asphalt, cans, bottles, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household fixtures, yard waste or equipment stored so as to be visible from public street, alley or from an adjoining property unless appropriate permits have been obtained from the city. Nothing herein shall preclude the placement of stacked firewood for use on the premises in the side or rear yards of the premises.
- (c) *Shared property.* Where parking in open areas is used jointly for the benefit of two (2) or more owners or tenants, the responsibility for maintaining these parking areas free of garbage and trash shall be the joint and several responsibility of the owners and tenants.

Secs. 18-10—18-27. - Reserved.

DIVISION 2. - DWELLINGS, ROOMING AND BOARDING HOUSES

Sec. 18-28. - Compliance.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein which does not comply with the provisions of this division. No person shall operate a rooming or boarding house, or shall occupy or let to another for occupancy any dwelling unit in any rooming house, except in compliance with this article and Code.

Sec. 18-29. - Minimum environmental, occupancy and space requirements.

- (a) *Sanitation.* All exterior property areas and the interior of every dwelling shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. The storage, collection and disposal of refuse shall be in accordance with Chapter 22 (Solid Waste) of this Code, as amended.
- (b) *Stairs, porches, handrail and guards.* Every stair, porch, balcony, elevated floor, exterior and interior stairs including required handrails and guards shall be constructed per locally adopted building codes. They shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. All components that are broken, show excessive wear or are missing shall be replaced.

Sec. 18-30. - Minimum requirements for safety.

- (a) *Dwelling prohibited in certain locations.* A dwelling shall not be located within a building or structure housing a business that handles, dispenses or stores flammable liquids.

- (b) *Cooking and heating equipment and facilities.* All cooking and heating equipment, components and accessories in every heating, cooking and waterheating device shall be maintained free from leaks and obstructions and kept functioning properly so as to be free from fire, health and accident hazards. Portable cooking equipment employing a flame is prohibited in multiple dwellings.
- (c) *Storage of flammable or combustible materials.* Flammable or combustible materials of all types shall be stored safely in removable, air-tight containers and shall not be stored in the vicinity of open heaters, kitchen ranges, furnaces or boilers or in the stairways or exit ways.
- (d) *Storage of explosive material.* No explosive material shall be stored or located so as to put in jeopardy either persons or property.
- (e) *Obstruction of exits.* There shall be no obstruction to or of fire escapes, ladders which may be used as escapes, stairways, aisles, exits, doors, windows, passageways or halls, that are likely in the event of fire to interfere with the operations of the fire department or of the safety and ready egress of occupants.

Sec. 18-31. - Basic sanitary and comfort facilities.

- (a) *Sanitary facilities required.* The minimum sanitary facilities set out in this article shall be provided by the owner and maintained in a sanitary, safe working condition.
- (b) *Water closet.* Every dwelling shall contain within its walls at least one (1) room, separate from the habitable rooms, which affords privacy and is equipped with a toilet and a lavatory. Windows with an aggregate glazing area of not less than three (3) square feet, one-half which must be openable shall be provided. The glazed area shall not be required where artificial light and a mechanical ventilation system are provided. Ventilation must meet current locally adopted building codes. At least one (1) toilet, lavatory basin, and bathtub or shower, properly connected to a water and sewer system in good working condition shall be supplied for each four (4) rooms within a rooming or boarding house whenever the facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Access to such water closet may not be through another dwelling unit.
- (c) *Bathtub or shower.* Every dwelling shall contain a room which affords privacy to a person and which is equipped with a bathtub or shower. At least one (1) bathtub or shower shall be available for every four (4) rooms in a rooming house or boarding house when a private bathtub or shower is not provided.
- (d) *Kitchen sink.* Every dwelling unit shall contain a kitchen sink apart from the room with a water closet.
- (e) *Water and sewer system.* Every kitchen sink, lavatory basin, bathtub, shower and water closet shall be properly connected to an approved and properly operating water and sewer system. All sinks, lavatories, bathtubs and showers shall be provided with hot and cold running water.
- (f) *Water-heating facilities.* Every dwelling shall be equipped with water-heating facilities which are installed according to industry specifications, properly maintained and connected with hot water lines to the fixtures required by this Code to be provided with hot water. Water-heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility, or other similar unit, at a temperature of not less than one hundred twenty (120) degrees Fahrenheit at any time needed.
- (g) *Heating facilities.* Every dwelling shall have adequately vented heating facilities:
 - (1) The heating facility shall be capable of maintaining a minimum room temperature of sixty-eight (68) degrees Fahrenheit at a point three (3) feet above the floor and two (2) feet from exterior walls in all habitable rooms and every room containing a toilet, shower or bathtub.
 - (2) The heating facilities shall be properly installed, maintained in a safe manner, and capable of delivering heat to the dwelling as required.
 - (3) Fuel fired heating equipment shall be connected to an approved chimney or vent.

(h) *Plumbing and electrical system installation and maintenance.* In all dwellings, water lines, plumbing fixtures, vents, drains, stacks, waste and sewer lines shall be properly installed according to industry specifications and the Code of the City of Tucker and maintained so as to function properly and shall be kept free from obstructions, leaks and defects. Electrical wiring and fixtures shall be installed, maintained and used according to industry specifications and the Code of the City of Tucker and shall not be altered or allowed to deteriorate in any way that might create an unsafe condition.

Sec. 18-32. - Electrical systems.

- (a) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed and connected to the source of electrical power in accordance with the adopted electrical code of the city.
- (b) Where a determination is made, upon examination of the existing electrical service supply, that such electrical service is obsolete or is being used in such a manner as would constitute a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used for determining the adequacy of such service supply and main disconnect switch:

Total Number of Lighting Electrical Outlets only	Capacity of Main Service Supply and Main Disconnect Switch (amps)
0—24	60
25—50	100

(c) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the electrical code of the city.

Sec. 18-33. - Light and ventilation.

- (a) *Total window area.* All habitable rooms shall be provided with aggregate glazing area of not less than eight (8) percent of the floor area of the room. Such openings shall be provided with ready access or shall otherwise be readily controllable by the building occupants. The minimum openable area to the outdoors shall be four (4) percent of the floor area. Glazing areas need not be provided where approved mechanical ventilation and artificial light is provided.
- (b) *Electrical lights and outlets required.* Every dwelling shall be wired for electric light and convenience receptacles. Every habitable room of such dwelling shall contain at least one (1) floor or wall-type electric convenience outlet. Every kitchen, bathroom, bedroom, corridor or hallway, and porch shall contain at least one (1) supplied ceiling or wall-type electric outlet. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
- (c) *Light in public halls and stairway.* Every public hall and stairway in every multiple dwelling containing five (5) or more units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four (4) dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

- (d) *Alternatives to windows.* Year-round mechanically ventilating conditioned air systems may be substituted for windows, as required in this section, in rooms other than rooms used for sleeping purposes. Window-type air-conditioning units are not included in this exception.
- (e) *Bathroom.* Windows in bathrooms shall comply with section 18-31(b) of this Code.

Sec. 18-34. - Exterior property areas.

- (a) *Accessory structures:* Accessory buildings and structures shall be structurally sound and be maintained in good repair or such buildings and structures shall be removed. All surfaces shall be maintained free of broken glass, loose shingles, peeling paint, crumbling stone, brick or cement or other conditions reflective of deterioration or inadequate maintenance. The exterior walls, roofs, windows, window frames, doors, doorframes, foundations and other portions of every building and structure shall be so maintained as to prevent deterioration from water and weather. Damaged materials must be repaired or replaced promptly. Places showing signs of rot, leakage, deterioration or corrosion are to be restored and protected against weathering or seepage.
- (b) *Fences and retaining walls:* All fences and retaining walls on the premises shall be structurally sound and kept in good repair. The fence posts shall be firmly set in a base that does not allow the posts to shift. The fence railings or slatting shall be firmly attached to the supporting posts. Gaps or wedges in a retaining wall shall be restored to the original condition. Fences and retaining walls shall not encroach on the public right-of-way and must be maintained in a manner that will protect the fence or wall from rotting, decay, deterioration, or loss of structural integrity.
- (c) *Foundations, walls and roof:* Every foundation, exterior wall, roof and chimney and all other exterior surfaces shall be maintained plumb and free from open cracks and breaks. Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building. The foundation elements shall adequately support the building at all points.
- (d) *Exterior walls:* Every exterior wall, including screened-off areas, doors and windows, shall be free of holes, breaks, loose or rotting boards or timbers, or any conditions which might admit rain, dampness or insects to the interior portions of the walls or to the occupied spaces of the building. All exterior wall or surface material, once painted, must be kept in good repair free of peeling, cracked, blistered paint, graffiti, or paint weathered to an uneven and spotty condition. Any exterior wall or surface material must be protected against weathering.
- (e) *Exterior openings:* Every exterior opening shall be fitted with a window, door or basement hatchway cover, as appropriate, which shall be tight and maintained in sound condition and good repair to exclude wind and prevent the entrance of rodents, rain and surface drainage water into the dwelling or structure. Every doorway which gives access from a habitable room or dwelling unit into a common passageway, hall, stairway or the exterior shall be fitted with a door, equipped with hardware capable of ensuring security and privacy to the occupants of such habitable room or dwelling unit.
- (f) *Windows and screens:* Every window shall be in good condition and fit tightly within its frame so as to exclude wind and rain as completely as possible from entering the dwelling or structure. All windows shall be fully supplied with glass windowpanes or an approved substitute without cracks or holes. Windows, other than fixed windows, shall be capable of being easily opened and shall be held in position by window hardware. Any window that is open shall have a screen in place covering the open window area. Screens shall be maintained in good repair. When present, awnings are to be kept in good repair. Every other opening located within four (4) feet of the ground level shall be protected against the possible entry of insects and rodents. Dwelling units containing central air-conditioning equipment are not required to have screens on window openings.
- (g) *Doors:* Every exterior door shall be maintained in good condition and when closed shall fit well within its frame so as to exclude wind and rain as completely as possible from entering the dwelling or structure. Every door hinge and door latch shall be maintained in good condition. Every door available as an exit shall be capable of being easily opened from the inside.

- (h) *Stairs, porches and appurtenances.* Every inside and outside stair, porch, and any appurtenance thereto of every structure used for human habitation shall be capable of supporting the load that normal use may cause to be placed thereon and be maintained in sound condition and good repair.
- (i) *Secondary means of egress.* Every dwelling unit shall have no less than one (1) exit door. The required exit door shall provide for direct access from the habitable portion of the dwelling to the exterior without requiring travel through any other dwelling units or a private garage. The required exit door shall be a side-hinged door not less than three (3) feet in width and six (6) feet, eight (8) inches in height.
- (j) *Emergency escape routes.* Basements with habitable space and every sleeping room below the fourth floor shall have at least one (1) operable emergency escape and rescue window or exterior door opening for emergency escape and rescue.

Sec. 18-35. - Building interiors.

- (a) *Freedom from dampness.* Every building shall be maintained free from dampness to prevent conditions conducive to decay, mold, electrical hazards or deterioration of the structure.
- (b) *Structural members.* The supporting structural members of every building shall be structurally sound, showing no evidence of deterioration or damage that would render them incapable of carrying the imposed loads.
- (c) *Interior walls, ceilings and floors.* All interior walls, ceilings and floors shall be structurally sound, in good repair, free from defects and painted or decorated.
- (d) *Bathroom and kitchen floors.* Every kitchen and wet floor areas of bathrooms shall be covered and protected by non-absorbent floor coverings. Dressing areas may transition to carpet.

Sec. 18-36. - Dwelling space.

- (a) *Required space in dwellings.* Every dwelling shall contain at least one hundred fifty (150) square feet of floor area for the first occupant thereof and at least one hundred (100) additional square feet of floor area per additional occupant.
- (b) *Required space in sleeping rooms.* In every dwelling of two (2) or more rooms, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant thereof.
- (c) *Minimum ceiling height.* At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven (7) feet. The floor area of that part of any room where the ceiling height is less than seven (7) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum occupancy thereof.
- (d) *Conditions to inhabiting basement.* No cellar shall be used as a habitable room. No basement shall be used as a habitable room or dwelling unit unless:
 - (1) The floor and walls are impervious to leakage of underground and surface runoff water and are adequately protected against dampness;
 - (2) The total window area in each room is equal to at least the minimum window area required by this division;
 - (3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area or is equipped with an adequate window well providing light and ventilation; and
 - (4) The total of openable window area in each room is equal to at least the minimum as required under this division, except where there is supplied some other device affording adequate ventilation, and approved by the city.

- (5) All sleeping rooms shall have an emergency escape window or door leading directly to the exterior.

Sec. 18-37. - Sanitation.

- (a) *Sanitation.* Every owner of a dwelling containing two (2) or more rooms shall be responsible for maintaining in a clean and sanitary condition the shared or common areas of the dwelling and premises thereof. The operator of every rooming or boarding house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the house.
- (b) *Cleanliness.* Every occupant of a rooming house, boarding house, or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling and/or dwelling unit and any premises thereof which such person occupies and controls or which is provided for such person's particular use.
- (c) *Garbage disposal.* Every occupant of a dwelling or dwelling unit shall dispose of garbage and any other organic waste, which might provide food for rodents and insects, and rubbish in a clean and sanitary manner by placing such in the garbage disposal facilities or garbage or rubbish storage containers.
- (d) *Extermination.* Every occupant of a dwelling or dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. Notwithstanding the foregoing provision, whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonable rodent-proof and insect-proof condition, extermination shall be the responsibility of the owner.
- (e) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling or dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (f) *Grading and drainage.* All premises shall be graded so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon.

Sec. 18-38. - Weeds, junk, etc., prohibited.

- (a) Persons shall keep their property free of those weeds and underbrush which create a health menace, fire hazard or an unsafe or unsanitary condition as well as trash, garbage, inoperable vehicles or other things thereon which constitute a violation of the provisions of this article.
- (b) It shall be unlawful for the owner, operator or occupant of a dwelling, rooming house, building or structure to use the premises of such property for the open storage of any inoperable vehicle, household appliance, glass, building material, building trash or similar item. It shall be the duty and the responsibility of each owner, operator or occupant to maintain the premises of such property and to remove from the premises all abandoned items as listed above, including, but not limited to, weeds, dead trees, trash and garbage, upon notice from the city.
- (c) Owners and occupants of property shall not permit weeds or grass within one hundred fifty (150) feet of any building or structure to grow on such property to a height exceeding twelve (12) inches.
- (d) Owners and tenants of property or structures abutting a street, sidewalk, lane or parking area on which the property or structure abuts shall maintain the property or structure clean and free of garbage and trash; however, city maintenance responsibility for public rights-of-way shall not be diminished by this section.
- (e) Where parking in open areas is used jointly for the benefit of two (2) or more owners or tenants, the responsibility for maintaining these parking areas free of garbage and trash shall be the joint and severable responsibility of the owners and tenants of these premises.

Sec. 18-39—18-60. - Reserved.

DIVISION 3. - ADMINISTRATION, ENFORCEMENT, VIOLATION AND PENALTIES

Sec. 18-61. - Enforcement generally.

- (a) The chief of police is hereby authorized and directed to administer and enforce all of the provisions of this article. Authorized agents of the department may be selected and vested by the chief of police with the police power to prosecute persons charged with violating the terms of this article and to take all necessary steps to ensure compliance with the terms of this article.
- (b) Whenever necessary to make an inspection or to enforce any of the provisions of this article or whenever the chief of police has reasonable cause to believe that there exists in any building or structure any condition which makes such building or structure unsafe, the chief of police may enter the building or structure during normal work hours with the consent of the owner or an inspection warrant to inspect the same or to perform any duty imposed upon the chief of police by this article.
 - (1) If such property is occupied, the chief of police shall first present proper credentials and request and obtain consent to enter before entering the building or structure. Reasonable effort must be made to locate the owner or other persons having charge or control of the property when seeking permission for entry.
 - (2) If no consent has been given to enter or inspect any building or structure, no entry or inspection shall be made without the procurement of a warrant from a magistrate of DeKalb County, or a judge of the State or Superior Court of DeKalb County.
 - (3) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.
 - (4) The chief of police may enter the premises without consent or an inspection warrant to make an inspection or enforce any provisions of this Code only if so authorized by state or federal law.

Sec. 18-62. - No financial interest.

No official or employee of the police department, the development department, the public works department or the department making inspection of properties for the purpose of determining the necessity for repairs or corrections shall or may have any financial interest, directly or indirectly in any repairs or corrections which may be required by this article.

Sec. 18-63. - Owner's right of entry.

Every occupant of a building, dwelling, or dwelling unit shall give the owner thereof, or the owner's agents or employees, access to any part of such building, dwelling or dwelling unit or its premises, at all reasonable times, for the purpose of maintenance, improving or making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted pursuant to the provisions of this article.

Sec. 18-64. - Stopping work.

Whenever the department determines defective or illegal work is performed in violation of a provision or requirement of this article, it shall order, in writing, all further work to cease until such defective or illegal work is corrected.

Sec. 18-65. - Prohibited manner of managing or controlling real property.

- (a) It shall be a violation of this article for any person who has management authority over or control of property within a residential zoning district, whether as a legal or equitable owner, managing agent, leasing agent, rental agent or otherwise, to recklessly permit the physical condition or facilities of the

property to become or remain in any condition which endangers the health or safety of any person. Such conduct shall include, but not be limited to:

- (1) Recklessly allowing property to be improperly secured, resulting in the commission of a crime against a resident of the property or against any other person;
 - (2) Recklessly allowing property to collapse or partially collapse, resulting in injury to a person inside or outside of a building;
 - (3) Recklessly allowing property to remain in violation of applicable building codes, fire codes, or other applicable provisions of this Code;
 - (4) Recklessly failing to respond to reasonable requests by the city to repair property that is in violation of an applicable provision of the Code; or
 - (5) Recklessly endangering the health and safety of any person by illegally altering or modifying a structure to increase the number of dwelling units or habitable rooms within the structure, or by allowing any such alteration or modification to continue or be used.
- (b) Any person found to have violated subsection (a) shall be subject to a fine of not less than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be regarded as committed each day on which such person shall continue any such violation.
- (c) This section shall not apply to any freestanding, owner-occupied single-family home or to any owner-occupied townhouse; provided, however, the requirements of this section shall apply to any single-family home, or townhouse, which is rented, or to any structure that is altered or modified in violation of this Code.
- (d) This section shall not apply to any person who is a tenant on the property or in the structure that is the subject of the violation so long as such tenant has no ownership interest in the property or structure.

Sec. 18-66. - Violations.

A person who violates a provision of this article or fails to comply with this article is guilty of an offense. The owner of a building, structure or premises, where anything in violation of this article shall be placed or shall exist, or any person who may have assisted in the commission of such violation, shall each be guilty of a separate offense. A purchaser, transferee, lessee or mortgagee who has actual or constructive knowledge of the issuance of a citation or notice of violation pursuant to this article shall be deemed to have notice of the violation as of the date of such sale, transfer, lease or mortgage.

Sec. 18-67. - Penalties.

- (a) Any person, firm or corporation that does anything prohibited or fails to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon citation by the chief of police or his/her designee and conviction of the violation in a court of competent jurisdiction, shall be subject to a fine and/or imprisonment in accordance with section 1-10. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.
- (b) Without limiting the foregoing, upon the presentment of evidence, the judge may consider whether the imposition of a sentence authorized under this article would:
- (1) Result in undue burden or hardship;
 - (2) Alter or impair the obligations created by court order or decree; or
 - (3) Otherwise not further the health, safety and welfare of the citizens of the City of Tucker.

- (c) Upon a third or subsequent conviction of a violation of section 18-38(c), the court of competent jurisdiction, in addition to other remedies provided in this article, may order the city to cut and remove any and all overgrown vegetation, weeds or grass from said property at public expense, the full cost of which shall constitute a lien upon the property thereof, when the owner refuses to cut and remove the same in accordance with this article, or when such owner cannot be located by reasonable search. The lien shall attach to the property in accordance with the provisions in section 18-70(d).

DIVISION 4. - DANGEROUS, UNINHABITABLE AND UNFIT BUILDINGS

Sec. 18-68. - Uninhabitable dwellings.

- (a) The department shall make an investigation or inspection of a dwelling, structure or premise whenever a charge is made that any dwelling, structure or premise is dangerous and unfit for human habitation. The charge must be made by a public authority or in writing by at least five (5) residents who have attained the age of majority living in separate households of the City of Tucker if the dwelling, structure or premise in question is located in the city. For purposes of this subsection, a board of directors of a duly incorporated, mandatory-membership homeowners association may bring a charge that any dwelling, structure or premise is dangerous and unfit for human habitation, without regard to any limitation on the number of residents required by this subsection, if the decision to bring a charge is authorized by an official vote of the board of directors of the incorporated homeowners association in compliance with its by-laws and such decision is reflected in the minutes of the meeting where such a decision was made.
- (b) If the department determines that the property or structures on the property are dangerous and unfit for human habitation, in addition to all other remedies available under this Code and article, the city may issue a complaint in rem 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. The city shall cause summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building, or structure. Service of the complaint shall be in the manner as mandated by O.C.G.A. § 41-2-12, as may hereinafter be amended.
- (c) The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner and parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by the city to abate or correct the alleged violation.
- (d) The summons shall notify the owner and parties in interest that a hearing will be held within the city before a court of competent jurisdiction at a date and time certain. Such hearing shall be held not less than fifteen (15) days nor more than forty-five (45) days after the filing of said complaint in the proper court.
- (e) The owner and parties in interest 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.

Sec. 18-69. - Orders and appeals.

- (a) After notice and a hearing, if the court determines that the dwelling, structure or premise in question is dangerous and unfit for human habitation, the court shall assess any joint and several fine(s) against the owner and all parties in interest of not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00) per offense.
- (b) In addition to any fine(s) assessed, the court may order the owner and any person known to have an interest in the property to repair, close or demolish the dangerous structure which is deemed unfit for human habitation or which imperils the health, safety and welfare of the citizens of the city, provided

such order is coupled with a finding of fact that the dangerous structure is unfit for human habitation or imperils the health, safety and welfare of the citizens of the city. Any dangerous structure ordered to be closed shall be boarded to minimum specifications as determined by the chief of police.

- (c) Such finding of fact shall be coupled with a brief explanation sufficient to inform the owner and any person with a known interest in the property why the dangerous structure is deemed to be unfit for human habitation or imperils the health, safety and welfare of the citizens of the city. The court may also order the property to be vacated and closed pending repair of the property.
- (d) The order and findings of fact shall be sent to the owner and any person known to have an interest in the property, by certified mail, return receipt requested, to the last known address of such person. The order and findings of fact shall also be posted on the property and advertised in the legal organ of the city. The order to repair, close or demolish shall designate the time within which the owner shall repair, close or demolish the dangerous structure, but in no event shall such time be less than thirty (30) days from the date the order is transmitted to the owner and any person known to have an interest in the property.
- (e) In addition to the other remedies provided in this article, the court may order the city to repair, close, or demolish such dangerous structure(s) at public expense, the full cost of which shall constitute a lien upon the property thereof, when the owner refuses to repair, close, or demolish same in accordance with this article, or when such owner cannot be located by reasonable search. The lien shall attach to the property in accordance with the provisions in section 18-70(d).
- (f) The department may cause to be posted on the main entrance of any dwelling, building or structure closed by court order pursuant to this article, a placard with the following words:

"This building is unfit for human habitation or commercial, industrial or business use. The use or occupation of this building for human habitation or for commercial, industrial or business use is prohibited and unlawful."
- (g) Such placard shall bear the date posted, address of the building involved and be signed by the director. It shall be unlawful for such placard to be mutilated or removed or for such structure to be occupied until required corrective action is taken.
- (h) It shall be unlawful for a person or persons to occupy the dwelling, structure, or premises, or for an owner to allow occupancy of a dwelling, structure, or premises which has been placarded, if such dwelling, structure, or premises is, or becomes, vacant after placarding or, in all events, within sixty (60) days from the date of placarding unless the violation has been corrected.
- (i) The posting of the placard and the recording of same in the records of the department shall be notice to the general public that it is unlawful for any owner or party in interest to allow the dwelling or structure to be occupied, as provided herein. No further notice shall be required to be given to any owner or party in interest.
- (j) It shall be unlawful to deface, alter, destroy, cover or remove such placards. The department shall remove the placards when compliance with this article has been effected.
- (k) Where a complaint in rem is filed pursuant to this article and the action does not commence in the Superior Court of DeKalb County, 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 of DeKalb County under O.C.G.A. § 5-3-29, as amended. Notice of an appeal shall act as a supersedeas if so ordered by the trial court.

Sec. 18-70. - Correction of violation by city at expense of property owners.

- (a) If the court orders the city to demolish the structure, 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.

- (b) The city, its employees, and officers are relieved of any and all liability resulting from or occasioned by the repair, closing or demolition of the structure, and the retrieval, removal and sale of any salvaged materials, including, without limitation, any defects in such salvaged materials.
- (c) If demolition is ordered by the court, the cost of demolition, the cost of removal of salvaged materials, all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the in rem 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. The amount of the lien shall be reduced by the sales proceeds if any, as provided in section (a) above.
- (d) The lien shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, demolition or cutting and removal in the office of the clerk of Superior Court of the DeKalb County and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12, as amended. The clerk of superior court shall record and index such certified copy of the order in the deed records of the city 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 department shall forward a copy of the order and a final statement of costs to the county tax commissioner. 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 Chapter 4 of Title 48; provided however, that the limitation of O.C.G.A. § 48-4-78, as amended, which requires twelve (12) months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the mayor and city council. Thirty (30) days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes.
- (e) The mayor and city council may waive and release any lien imposed on property pursuant to this article if the owner of such property enters into a contract with the city agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property; demonstrates the financial means to accomplish such rehabilitation; fully completes the rehabilitation; and fulfills all terms of the contract.
- (f) The mayor and city council may appropriate revenue as necessary and may accept and apply for grants or donations in carrying out the provisions of this article.

Sec. 18-71. - Demolition of structures.

- (a) Demolition of any structure shall not begin until all of the following conditions are satisfied:
 - (1) A permit for demolition has been secured from the city;
 - (2) The county health director has inspected the premises and accepted an appropriate vermin and rodent extermination plan; and
 - (3) All utilities are cut off and capped at the street.
- (b) Within the time specified in the demolition permit:
 - (1) All debris, trash, litter, rubbish, rubble and foundation exposed above the ground level shall be removed from the premises.
 - (2) Any excavation or other depression must be filled to existing grade with clean dirt containing no more than twenty-five (25) percent stone or masonry and all filled areas must be adequately sloped and drained.

Secs. 18-72—18-99. - Reserved.

ARTICLE IV. - FORECLOSURE REGISTRY²

Sec. 18-100. - Purpose and findings.

- (a) The governing authority finds that there is a need to establish a foreclosure registry as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties that are foreclosed or where ownership has been transferred after foreclosure.
- (b) Improperly maintained and unsecure foreclosed properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities. Difficulties also often arise in locating the person responsible for the condition of foreclosed real property. The governing authority finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the provisions in this article.
- (c) This foreclosure registry will require creditors to provide the city with official information for contacting a party responsible for bringing foreclosed real property into compliance with applicable provisions of state and federal law, and the Code.
- (d) If there is a conflict between the provisions and requirements in this article and state law, as it exists now or may be amended hereafter, then state law shall govern.

Sec. 18-101. - Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Code shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent means an individual with a place of business in this state at which he or she is authorized on behalf of a foreclosed real property owner, with respect to foreclosed real property, to:

- (1) Accept inquiries, notices, and service of process;
- (2) Ensure security and maintenance;
- (3) Comply with code enforcement orders issued by the city;
- (4) Provide a trespass authorization upon request of an enforcement officer;
- (5) Conduct inspections; and
- (6) Accept rental payments from tenants, if no management company is otherwise employed.

Bona-fide, arms length sale means a transaction which has occurred in good faith by unrelated or unaffiliated parties, who are a willing buyer and a willing seller, each acting in his or her own self interest.

Chapter means chapter 18 of the Code.

Clerk means the Clerk of the City of Tucker Superior Court.

City official means city employee designated by the chief executive officer.

Days means consecutive calendar days.

Director means the director of the department of planning and sustainability.

Enforcement officer means any law enforcement officer, building official, fire inspector or code enforcement officer employed by or working on behalf of the city.

Foreclosed real property means improved or unimproved real property for which a land disturbance permit has been issued by the city and held pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed, deed to secure debt, or other security instrument securing a debt or obligation owed to a creditor or a deed in lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor, where said real property is within the city, but shall not include property within the boundaries of any municipal corporation, unless otherwise allowed by intergovernmental agreement between the city and said municipal corporation.

Street address means the street or route address. Such term shall not mean or include a post office box.

Sec. 18-102. - Registry of foreclosed real property.

- (a) Any person who holds foreclosed real property shall, no sooner than sixty (60) days but no later than ninety (90) days after the effective date of the real property's foreclosure transfer to said person, register with the city official the following information for each foreclosed real property, as identified by its tax parcel number:
 - (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (3) The real property's street address and tax parcel number;
 - (4) The transfer date of the instrument conveying the real property to the owner; and
 - (5) At such time as it becomes available, recording information, including deed book and page numbers, of the instrument conveying the real property to the owner.
- (b) Any persons who holds foreclosed real property shall pay to the city official, for each registered foreclosed real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).
- (c) A person shall be exempt from registering foreclosed real property if it is acquired by foreclosure under power of sale pursuant to O.C.G.A. § 44-14-160 or acquired pursuant to a deed in lieu of foreclosure, and the deed under power of sale or deed in lieu of foreclosure contains:
 - (1) The information specified in subsection (a) of this section;
 - (2) The deed is filed with the clerk within sixty (60) days of the transfer; and
 - (3) Proof of the following is provided to the director:
 - a. A filing date stamp or a receipt showing payment of the applicable filing fees; and
 - b. The entire deed under power of sale or entire deed in lieu of foreclosure.

Sec. 18-103. - Registry of transferred foreclosed real property.

- (a) Any person who holds foreclosed real property and then transfers said foreclosed real property to a different person shall, no sooner than ninety (90) days but no later than one hundred twenty (120) days after the effective date of the transfer, register with the city official the following information for each transferred foreclosed real property, as identified by its tax parcel number:

- (1) The real property transferee's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (2) The transferee's agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (3) The transferred real property's street address and tax parcel number;
 - (4) The transfer date of the instrument conveying the real property to the transferee; and
 - (5) At such time as it becomes available, the recording information, including deed book and page numbers, of the instrument conveying the real property to the transferee.
- (b) Any person who has foreclosed on real property and then transfers said foreclosed real property to a different person shall pay to the city official, for each registered transferred foreclosed real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).
- (c) No person who holds foreclosed real property and then transfers said foreclosed real property to a different person is exempt from registering or paying fees because the information provided to the city is in a deed under power of sale or deed in lieu of foreclosure.

Sec. 18-104. - Updating change in registry information.

- (a) Any person registered pursuant to section 18-102 shall update any change in information required to be submitted by that section to the city official within thirty (30) days of the change.
- (b) Any transferee registered pursuant to section 18-103 shall update any change in information required to be submitted by that section to the city official within thirty (30) days of the change.

Sec. 18-105. - Enforcement, violations and penalties.

- (a) Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of applicable provisions of state and federal law and the Code.
- (b) It shall be a violation of this article to:
- (1) Fail to register or pay the registration fee in accordance with applicable provisions of this article; or
 - (2) Fail to update a change in registry information.
- (c) Any person who is required but fails to register, pay the registration fee or update a change in registry information as required by this article, upon citation or summons by an authorized city employee, and judgment or conviction of the violation in a court of competent jurisdiction, which includes the recorder's court, shall be subject to penalties not to exceed one thousand dollars (\$1,000.00).

Sec. 18-106. - Deregistration.

- (a) An owner may apply to remove foreclosed real property from the foreclosure registry at such time as the foreclosed real property:
- (1) Is conveyed to a third party in a bona-fide, arms-length sale;
 - (2) The owner has provided the director with a copy of the recorded deed, together with a Form PT-61 filed in connection therewith, showing conveyance of the foreclosed real property to a third party in a bona-fide, arms-length sale; and
 - (3) The foreclosed real property does not have any outstanding warnings or citations for a violation of any requirements under state or federal law or the Code.
- (b) The director shall grant or deny an owner's application to remove foreclosed real property from the foreclosure registry within thirty (30) days of receipt of a complete application. An application is complete when it contains all of the information required by subsection (a) of this section. The director's

decision shall be in writing, dated, signed and mailed to the owner at its agent's address. If no decision is made within thirty (30) days, the application shall be deemed granted.

Sec. 18-107. - Administrative procedures.

- (a) A citation, issued pursuant to section 18-105, is not a determination as that term is set forth in O.C.G.A. § 44-14-14, but a matter involving a violation of the Code subject to the original jurisdiction of the recorder's court pursuant to 1959 Ga. Laws p. 3093, section 2 codified as section 653 of appendix B to the Code.
- (b) As required by O.C.G.A § 44-14-14(j), any determination made by the director pursuant to the remaining provisions of this article shall be in writing, dated, signed and mailed to the owner or transferee at an agent's address.
- (c) Any determination made pursuant to this article may be appealed by an owner or transferee to the city executive assistant. The appeal must be in writing and received by the city executive assistant within fourteen (14) days of the date of determination. To be considered complete, the appeal shall include:
 - (1) A description of the determination being challenged;
 - (2) The date the determination was made; and
 - (3) All the reasons that the owner or transferee believes that the determination represents an error in a material fact or a material misapplication of the requirements of this article.
- (d) An appeal shall be deemed received by the city executive assistant if postmarked prior to midnight on or before the day it is due.
- (e) The city executive assistant may only reverse a determination of the director if he or she finds that the determination was based on an error in a material fact or a material misapplication of the requirements of this article.
- (f) The city executive assistant shall, within thirty (30) days after a complete appeal is received, issue a written decision affirming, reversing or modifying the determination of the director.
- (g) As required by O.C.G.A. § 44-14-14(j), an owner or transferee may appeal the written decision of the city executive assistant to recorder's court. Said appeal shall be filed within fourteen (14) days after the date of the issuance of the written decision.
- (h) The director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.

Secs. 18-108—18-115. - Reserved.

ARTICLE V. - VACANT PROPERTY REGISTRY

Sec. 18-116. - Purpose and findings.

- (a) The governing authority finds that there is a need to establish a vacant property registry as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of properties that are vacant.
- (b) Improperly maintained and unsecure vacant properties can become a hazard to the health and safety of persons who may come on or near the property and can adversely affect the aesthetic and economic attributes of communities. Difficulties also often arise in locating the person responsible for the condition of vacant real property. The governing authority finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of the provisions in this article.
- (c) This vacant property registry will require the owner to provide the city with official information for contacting a party responsible for bringing vacant real property into compliance with applicable provisions of state and federal law, and the Code.
- (d) If there is a conflict between the provisions and requirements in this article and state law, as it exists now or may be amended hereafter, then state law shall govern.

Sec. 18-117. - Definitions.

For purposes of this article, certain phrases and words are defined below. Words or phrases not defined in this article but defined in applicable state law or the Code shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Agent means an individual with a place of business in this state at which he or she is authorized on behalf of a vacant real property owner, with respect to vacant real property, to:

- (1) Accept inquiries, notices, and service of process;
- (2) Ensure security and maintenance;
- (3) Comply with code enforcement orders issued by the city;
- (4) Provide a trespass authorization upon request of an enforcement officer;
- (5) Conduct inspections; and
- (6) Accept rental payments from tenants, if no management company is otherwise employed.

Chapter means chapter 18 of the Code.

City official means city employee designated by the chief executive officer.

Days means consecutive calendar days.

Director means the director of the department of planning and sustainability or designee.

Enforcement officer means any law enforcement officer, building official, fire inspector or code enforcement officer employed by or working on behalf of the city.

Evidence of utility usage means a bill or invoice from a supplier of water, electricity or gas showing at a minimum the base charge charged by the supplier for usage at the real property.

Lawfully inhabited means that the building or structure is occupied by the owner or tenant or pursuant to the express consent of the owner or tenant.

Partially constructed or incomplete means real property for which a land disturbance permit has been issued by the city, but no valid building permit.

Street address means the street or route address. Such term shall not mean or include a post office box.

Vacant real property means real property that:

- (1) Is intended for habitation, has not been lawfully inhabited for at least sixty (60) days and has no evidence of utility usage within the past sixty (60) days; or
- (2) Is partially constructed or incomplete, without a valid building permit.

The term "vacant real property" shall not include a building or structure containing multiple units with common ownership that has at least one (1) unit occupied with evidence of utility usage.

Sec. 18-118. - Registry of vacant real property.

- (a) Any person who owns vacant real property shall no later than (90) days after it becomes vacant real property, register with the city official the following information for each vacant real property, as identified by its tax parcel number:
 - (1) The real property owner's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (2) The agent's name, street address, mailing address, phone number, facsimile number, and e-mail address;
 - (3) The real property's street address and tax parcel number.
- (b) Any person who owns vacant real property shall pay to the city official, for each registered vacant real property, as identified by its tax parcel number, a fee of one hundred dollars (\$100.00).

Sec. 18-119. - Updating change in registry information.

Any person registered pursuant to section 18-118 shall update any change in information required to be submitted by that section to the city official within thirty (30) days of the change.

Sec. 18-120. - Enforcement, violations and penalties.

- (a) Registration information shall be deemed prima facie proof of the statements contained therein in any court proceeding or administrative enforcement proceeding in connection with the enforcement of applicable provisions of state and federal law and the Code.
- (b) It shall be a violation of this article to:
 - (1) Fail to register or pay the registration fee in accordance with applicable provisions of this article;
or
 - (2) Fail to update a change in registry information.
- (c) Any person who is required, but fails to register, pay the registration fee or update a change in registry information as required by this article, upon citation or summons by an authorized city employee, and judgment, or conviction of the violation in a court of competent jurisdiction, which includes the recorder's court, shall be subject to penalties not to exceed one thousand dollars (\$1,000.00).

Sec. 18-121. - Deregistration.

- (a) An owner may apply to remove vacant real property from the vacant property registry at such time as the vacant real property:
 - (1) Is lawfully inhabited;
 - (2) There is evidence of utility usage; and
 - (3) It does not have any outstanding warnings or citations for a violation of any requirements under state or federal law or the Code.

- (b) The director shall grant or deny an owner's application to remove vacant real property from the vacant property registry within thirty (30) days of receipt of a complete application. An application is complete when it contains all of the information required by subsection (a) of this section. The director's decision shall be in writing, dated, signed and mailed to the owner at its agent's address. If no decision is made within thirty (30) days, the application shall be deemed granted.

Sec. 18-122. - Administrative procedures.

- (a) A citation, issued pursuant to section 18-120, is not a determination as that term is set forth in O.C.G.A. § 44-14-14, but a matter involving a violation of the Code subject to the original jurisdiction of the recorder's court pursuant to 1959 Ga. Laws p. 3093, section 2 codified as section 653 of appendix B to the Code.
- (b) As required by O.C.G.A § 44-14-14(j), any determination made by the director pursuant to the remaining provisions of this article shall be in writing, dated, signed and mailed to the owner at an agent's address.
- (c) Any determination made pursuant to this article may be appealed by an owner or transferee to the city executive assistant. The appeal must be in writing and received by the city executive assistant within fourteen (14) days of the date of determination. To be considered complete, the appeal shall include:
 - (1) A description of the determination being challenged;
 - (2) The date the determination was made; and
 - (3) All the reasons that the owner or transferee believes that the determination represents an error in a material fact or a material misapplication of the requirements of this article.
- (d) An appeal shall be deemed received by the city executive assistant if postmarked prior to midnight on or before the day it is due.
- (e) The city executive assistant may only reverse a determination of the director if he or she finds that the determination was based on an error in a material fact or a material misapplication of the requirements of this article.
- (f) The city executive assistant shall, within thirty (30) days after a complete appeal is received, issue a written decision affirming, reversing or modifying the determination of the director.
- (g) As required by O.C.G.A. § 44-14-14(j), an owner or transferee may appeal the written decision of the city executive assistant to recorder's court. Said appeal shall be filed within fourteen (14) days after the date of the issuance of the written decision.
- (h) The director may develop guidelines and forms, make recommendations and take such other steps as may be necessary to enforce the provisions of this article.

Secs. 18-123—18-130. - Reserved.