

RESOLUTION NO. 19-_____

A RESOLUTION AMENDING THE CODE OF ORDINANCES OF MONROE COUNTY, GEORGIA BY REPEALING CHAPTER 5, ARTICLE 3 ENTITLED "UNSAFE BUILDINGS" ADOPTING A NEW CHAPTER 5, ARTICLE 3 ENTITLED "PROPERTY MAINTAINENCE ORDINANCE," REPEALING ALL PRIOR ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the Board of Commissioners of Monroe County, Georgia (hereinafter "the Board") desires to provide for the health, safety, and welfare of the citizens of Monroe County, Georgia (hereinafter the "County"); and

WHEREAS, in order to protect the public health, safety, and welfare, the Board did adopt an Unsafe Building Ordinance to regulate dwellings, buildings or structures within the unincorporated area of the County; and

WHEREAS, after careful study and deliberation, the Board has decided to adopt a new Property Maintenance Ordinance to better protect the health, safety, and welfare of the citizens of the County and provide for the efficient enforcement of the ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Monroe County, Georgia, and it is hereby ordained by authority of the same, as follows:

Section 1. Chapter 5 Article 3 of the Code of Ordinances of Monroe County, Georgia entitled "Unsafe Buildings" is repealed in its entirety.

Section 2. A new Property Maintenance Ordinance designated as a new Chapter 5 Article 3 of the Code of Ordinances of Monroe County, Georgia and attached hereto as "Exhibit A" is hereby adopted.

Section 3. All ordinances or parts of ordinances in conflict herewith are repealed.

SO RESOLVED, this _____ day of _____, 2019.

MONROE COUNTY, GEORGIA

By: _____
Gregory V. Tapley, Chairman

(S E A L)

Attest: _____
Jim Hedges, Manager/Clerk

EXHIBIT "A"

ARTICLE III - PROPERTY MAINTENANCE ORDINANCE

Sec. 5-34. Purpose:

This article is enacted for the purpose of establishing minimum standards governing the use, occupancy, condition, and maintenance of property, dwellings, buildings, and structures; promoting and protecting the public health and safety through the control of weeds and grass which constitute a fire hazard; fixing certain responsibilities and duties of owners, operators, and occupants of dwellings; authorizing the inspection of dwellings and structures; providing for the condemnation of all buildings and structures deemed unfit for human use and habitation and providing for removal of such buildings at public expense after hearing; and for other purposes.

Sec. 5-35. Definitions:

1. *Alter or alteration* means any change or modification in construction.
2. *Applicable codes* mean:
 - a. Any optional housing or abatement standard provided in Chapter 2 of Title 8 of the Official Code of Georgia Annotated, as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property;
 - b. Any fire or life safety code as provided for in Chapter 2 of Title 25 of the Official Code of Georgia Annotated; and
 - c. Any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A., Chapter 2 of Title

8, after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

3. *Approved* means approved by Monroe County.
4. *Dangerous structure* means any of the following:
 - a. 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.
 - b. 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 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.
 - c. A structure that is in a condition of being partially constructed and construction thereon has ceased for a period of 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.

- d. Any combination of the foregoing which would constitute a hazard to the safety and welfare of any person living or property located adjacent thereto.
5. **Department** means the office of the County Manager, the office of the Code Enforcement Officer of the County, the Sheriff's Office, or such other department as may hereafter be designated to enforce the provisions of this article.
6. **Director** means the Code Enforcement Officer or the representative thereof. When a department other than the Office of the Code Enforcement Officer is designated to enforce this article, the term means the director of that department or the designee of such director.
7. **Drug crime** means an act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, as amended from time to time, known as the Georgia Controlled Substances Act.
8. The words "**dwelling, building, or structure**," used singly or in conjunction with each other, mean any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The terms 'dwelling, building, or structure' shall not mean or include any farm, any building or structure located on a farm, 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, or campers, hunting cabins or recreational cabins.

9. ***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.
10. ***Governing Authority*** means the Board of Commissioners of Monroe County.
11. ***Grade*** means the average elevation of the ground adjoining a building or structure.
12. ***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.
13. ***Interested party*** means:
 - a. the owner;
 - b. those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;
 - c. those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;
 - d. any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the County courthouse or by the clerk of the court, provided, the term "interested party" shall not include the holder of the

benefit or burden of any easement or right of way whose interest is properly recorded which interest shall remain unaffected; and

e. persons in possession of said property and premises.

14. ***Junked vehicle*** means any wrecked or non-operable automobile, truck, or other vehicle or any vehicle, which does not bear a current license plate.
15. ***Maintenance*** means the act of keeping buildings, structures, and equipment in a proper condition so as to prevent their decline or failure.
16. ***Occupant*** means any person over one year of age living, sleeping, cooking, eating, or having actual possession of a dwelling or rooming unit.
17. ***Operator*** means any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are let.
18. ***Owner*** means the holder of the title in fee simple and every mortgagee of record.
19. ***Premises*** means a lot, plot or parcel of land, including dwellings, buildings, or structures thereon. The terms 'Premises' shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products, or campers, hunting cabins or recreational cabins.

20. ***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.
21. ***Property*** means land and whatever is erected or growing upon or affixed thereto. The term 'Property' shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products, or campers, hunting cabins or recreational cabins.
22. ***Public authority*** means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the County, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the unincorporated area of the County.
23. ***Public officer*** means the officer or officers who are authorized by O.C.G.A. § 41-2-7 through and including § 41-2-17, this ordinance, and by ordinances adopted under O. C. G. A. §§ 41-2-7 through and including 41-2-17, to exercise the powers prescribed by such ordinances or any agent of such officer or officers.
24. ***Repair*** means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of

debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

25. ***Resident*** means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.
26. ***Safety*** means the condition of being free from danger and hazards which may cause accidents or disease.
27. ***Trash*** means non-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.
28. ***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.
29. ***Unsafe Building*** means those dwellings, buildings or structures:
 - a. Whose interior or exterior bearing walls, or other vertical structural members list, lean, or buckle to such extent as to weaken the structural support of such member below the minimum required to be accepted as safe by generally accepted standards;
 - b. Which have parts which are so attached that they are likely to fall and injure persons or property;

- c. Which in whole or in part are so dilapidated, decayed, damaged from any cause or deteriorated in any manner that they are likely to cause injury to persons or property;
- d. Which are likely to cause injury to persons or property because they contain weakened, defective, or deteriorated footings, foundations; floorings or floor supports; ceilings or ceiling supports; roof or chimney;
- e. Those which have visible soil erosion adjacent to or under any structural support;
- f. Those which are likely to cause injury to persons or property in the event of windstorm, fire, earthquake, panic or other catastrophe because of inadequate stairways elevators, escalators, fire escapes, or other means of egress;
- g. Those which are likely to cause injury to persons or property because they have defective or inadequate plumbing, improper sanitation facilities, insufficient ventilation, or lack of running water;
- h. Those which constitute fire hazards and are thereby dangerous to persons or property; or
- i. Those which are vacant, and because of lack of property maintenance, deterioration, or decay, are fire hazards, or are otherwise dangerous to human life, safety, health or morals.

30. *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.
31. *Unsanitary condition* means the presence of a condition which is conducive to the spreading of disease or illness, or is conducive to harboring insects, rodents, or other pests.
32. *Ventilation* means the process of supplying and removing air by natural or mechanical means to or from any space.

Sec. 5-36. Article Remedial, Scope, Application and No Civil Liability

1. Every building, dwelling, or structure in the incorporated area of the County, whether occupied or vacant, shall conform to the requirements of this article, irrespective of when such building may have been constructed, altered, or repaired. Every such building, structure, and premises shall be subject to and conform with the requirements of this article. When a unit is vacant, the full application of the article may be held in abeyance for an indefinite period, provided the exterior complies with this article, the interior has been cleaned of trash, rubbish, and debris, and the unit has been secured in a manner approved by the County and is maintained in that closed and inaccessible manner until it is fully repaired. Where applicable, this article also governs the condition of unimproved property.
2. 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 be done only in accordance with those ordinances.

3. No officer or member of the Board of Commissioners or employee of the County, charged with the enforcement of this article in the discharge of duties, shall be rendered liable personally; and such officer, member, or employee is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this article.

Sec. 5-37. Prohibitions.

1. It is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction 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 ordinances;
2. All dwellings, buildings, or other structures which are unsafe, unsanitary, or otherwise dangerous to human life or which, in relation to existing uses, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment are unlawful.
3. Unsafe buildings as herein defined are declared to be public nuisances;
4. 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, junked vehicles, junked or abandoned appliances, or other things thereon which constitute a violation of the provisions of this article.

5. It shall be unlawful for the owner, operator, or occupant of a dwelling, building, or structure to use the premises of such property for the open storage of any abandoned motor vehicle, household appliance, glass, building material, building trash, or similar item. It shall be the duty and the responsibility of such 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 County. In this subsection "abandoned motor vehicle" means (1) a motor vehicle that is in a state of disrepair and incapable of moving under its own power, or (2) a motor vehicle having no valid current license tag registration.
6. 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, County maintenance responsibility for public rights-of-way shall not be diminished by this section.
7. Where parking in open areas is used jointly for the benefit of two or more owners or tenants, the responsibility for maintaining these parking areas free of the items prohibited by this section shall be the joint and severable responsibility of the owners and tenants of these premises.

Sec. 5-38. Compliance prerequisite to utility services for substandard dwelling.

Electrical utility service shall not be reconnected to any vacant building or dwelling unit which is unfit for human habitation and has been without electrical utility service until such building or dwelling unit has been brought into compliance with this article unless electrical services are required to bring the dwelling, building or structure into compliance.

Sec. 5-39. Demolition of Structures.

1. Demolition of any structure shall not begin until all utilities are cut off and capped at the street.
2. All debris, trash, litter, rubbish, rubble, and foundation exposed above the ground level shall be removed from the premises.
3. Any excavation or other depression must be filled to existing grade with clean dirt containing no more than 25 percent stone or masonry and all filled areas must be adequately sloped and drained.

Sec. 5-40. Administration and Enforcement

1. The Department shall enforce the provisions of this article. The Monroe County Code Enforcement Officer is vested with the law enforcement power necessary for the purpose of issuing charges and prosecuting persons charged with violating this article.
2. The Governing Authority hereby appoints the Monroe County Code Enforcement Officer as the Public Officer. The Public Officer is charged with the enforcement of this Article, and is hereby empowered to exercise the powers prescribed by these ordinances.

3. The Department shall receive applications, requests, and complaints and issue permits and certificates required by this article. The Department shall make necessary inspections to see that the provisions of this article are met. The Department shall enforce all laws relating to the construction, alteration, repair, installation, erection, removal, demolition, use, location, and maintenance of properties, buildings, equipment, appliances, or systems, except as may be otherwise provided for in other ordinances or regulatory measures. The Department shall, when requested by proper authority, or when the interests of the County so require, make investigations in connection with matters referred to in this article and render written reports on the same. The Department shall issue notices or orders as may be necessary to enforce compliance with this article, to remove illegal or unsafe conditions or to secure the necessary safeguards.
4. Inspection of premises and the issuing of orders in connection therewith under the provisions of this article shall be the exclusive responsibility of the department. Wherever, in the opinion of the director, it is necessary or desirable to have inspections of any condition by any other department, the director shall arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders. An order for correction of any violation under this article shall not be issued without the approval of the director, who shall have the responsibility before issuing any such order to determine that it

has the concurrence of any other department or official of the government concerned with any matter involved in the case in question.

Sec. 5-41. Notice of violations, etc.

1. Upon receipt of information that property, premises, buildings, systems, appliances, or equipment covered by this article are unsafe, or are otherwise in violation of the provisions of this article or other ordinances of the County relating to the condition of property and premises, the department shall cause to be made an inspection. If it is found that an unsafe condition exists, the department shall cause a written notice to be served as hereinafter provided.
2. The notice shall include the following:
 - a. An enumeration of conditions which the department has determined are in violation of this article.
 - b. An enumeration of remedial action required for each determined violation.
 - c. A specified period of time within which such remedial action shall be completed, such period of time for completion to be determined by the department as the period of time reasonably required under the known circumstances for the completion of the remedial action.
 - d. A statement adequate to notify the person served that a failure to comply with the provisions of this article within the time specified in the notice is unlawful and the penalty for such failure.
3. A copy of such notice shall be filed in the office of the director.

4. Notice shall be deemed perfected if served upon the owner or occupant as may be appropriate in any of the following ways:
 - a. In person.
 - b. By certified mail with return receipt attached and posting a copy of the notice upon the property.
5. Whenever the department determines that property, buildings, systems, appliances, or equipment, or any work in connection therewith that is covered by this article is being erected, installed, altered, repaired, stored, maintained, or demolished in violation of this article, the department shall serve a written notice or order upon the person responsible therefore directing the discontinuance of such illegal action and the remedying of the condition that is in violation.
6. In case such notice or order is not complied with, the department may issue a citation for violation of this article or may request the County Attorney or other proper prosecuting authority to institute an appropriate action or proceeding at law or in equity to correct or remove such violation, or restrain the execution of work thereon, or prevent the use of any building, system, appliance, or equipment in violation of this article or of any order or direction made pursuant thereto.
7. A purchaser, transferee, lessee, or mortgagee who has actual or constructive knowledge of the issuance of a notice shall be bound by such notice as of the date of such sale, transfer, lease, or mortgage.

Sec. 5-42. Inspections

1. Inspections required under the provisions of this article shall be made by the department. Upon evidence of probable cause and presentation of proper credentials, authorized agents of the department may enter, at reasonable times, any building, structure, or premises in the unincorporated area of the County in order to enforce this article.
2. Any property, building, equipment, appliance, or system installed, constructed, erected, altered, repaired, maintained, or used in the unincorporated area of the County shall be subject to inspection by the department.
3. No official or employee of the department making inspection of properties for the purpose of determining the necessity for repairs or corrections shall have any financial interest, directly or indirectly, in any repairs or corrections which may be required by this article.

Sec. 5-43. Inspection warrant.

1. The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this article. The warrant shall authorize the director or agents thereof to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this article.
2. Inspection warrants may be issued by the magistrate court when the issuing judge is satisfied that all of the following conditions are met:
 - a. 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.

b. The issuing judge determines that the issuance of the warrant is authorized by this article.

3. The inspection warrant shall be issued only if it meets all of the following requirements:

a. The warrant is attached to the affidavit required to be made in order to obtain the warrant.

b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.

c. The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.

d. The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Sec. 5-44 Violations and Penalties

1. A person who violates a provision of this article or fails to comply with this article is guilty of an offense punishable as provided in the Monroe County Code

of Ordinances. The owner of a building, structure, or premises, where anything in violation of this article shall be placed or shall exist, and all persons who may have caused or assisted in causing the commission of such violation, shall each be guilty of a separate offense.

2. Any person, firm, or corporation that shall do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon conviction of a violation in court shall be subject to a fine and/or imprisonment in accordance with the Monroe County Code of Ordinances. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

Sec. 5-45 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. 5-46 Records

The department shall keep comprehensive records of applications received, permits and certificate issued, inspections made, reports rendered, and notices or orders issued. All such records shall be open to public inspection at office hours observed by the department but shall not be removed from the office of the director.

Sec. 5-47. 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 be stopped until such defective or illegal work is corrected.

Sec. 5-48. Placarding premises.

1. The department shall place a dated and signed placard on property which is in violation of this article, and notify the owner of such property by certified mail, return receipt requested, to the owner's last known address that the building has been placarded. Such notice shall specify the reason therefor and the owner's right of appeal as provided in this chapter. Such placard shall contain the following words:
 - a. "This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."
2. 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 60 days from the date of placarding unless the violation has been corrected.
3. 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

to allow the dwelling or structure to be occupied, as provided herein. No further notice shall be required to be given to any subsequent owner.

4. 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 affected.
5. If the owner and/or parties in interest fail to comply with an order to vacate and close the dwelling, building, or structure and clean the premises, the department may proceed under section 5-49 et seq. hereof.

Sec. 5-49. Repair or Demolition; Assessment of Costs.

1. Whenever a request is filed with the public officer by a public authority or by at least five residents of the municipality or by five residents of the unincorporated area of the county if the property in question is located in the unincorporated area of the county charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe

conditions, the public officer 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 and shall cause summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing;

2. If, after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an

order:

- a. If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
 - b. 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. For purposes of this Code section, the court shall make its determination of “reasonable cost in relation to the present value of the dwelling, building, or structure” without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified

building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction;

4. In cases involving violations other than buildings or structures on the property, the court shall order the owner or other person before the court to abate the condition by mowing, cutting, or removal, as the case may be.
5. 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. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to Code Section 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence.
6. If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged

materials; and

7. That the amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner or municipal tax collector or city revenue officer, 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.
8. The lien provided for 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 county where the real property is located and shall relate back to the date of the filing of the lis pendens notice. The clerk of superior court shall record and index such certified copy of the order in the deed records of the court 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.
 - a. Upon final determination of costs, fees, and expenses incurred in accordance with this section, the public officer shall transmit to the tax commissioner a statement of the total amount due and secured by said lien, together with copies of all notices provided to interested parties. The statement of the public officer shall be transmitted within 90 days of completion of the repairs, demolition, or closure. It shall be the duty of the tax commissioner to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48 of the Official Code of Georgia Annotated; provided however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the governing authority of the county.
 - b. Enforcement of liens pursuant to this section may be initiated at any time following

receipt by the county tax commissioner of the final determination of costs in accordance with this section. The unpaid lien amount shall bear interest and penalties from and after the date of the final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-74.

- c. The redemption amount in any enforcement proceeding pursuant to this code section shall be the full amount of the costs as finally determined in accordance with this section together with interest, penalties, and costs incurred by the governing authority or tax commissioner in the enforcement of such lien. Redemption of property from the lien may be made in accordance with the provisions of O.C.G.A. § 48-4-80 and 48-4-81.
9. The governing authority may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the county agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.
10. Where the abatement action does not commence in superior court, review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.
11. The public officers designated herein may, in addition to the powers herein granted, issue citations for violations of state minimum standard codes, option building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in a court of competent jurisdiction prior to issuing a complaint in rem as provided in this ordinance.
12. Nothing in this article shall be construed to impair or limit in any way the power

of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

13. The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of such county or municipality. Such conditions may include the following (without limiting the generality of the foregoing):
 - a. Defects therein increasing the hazards of fire, accidents, or other calamities;
 - b. Lack of adequate ventilation, light, or sanitary facilities;
 - c. Dilapidation;
 - d. Disrepair;
 - e. Structural defects; and
 - f. Uncleanliness.
 - g. The above listed conditions shall be in addition to the conditions listed in Section 5-34 (52);
 - h. The existence of other conditions of the premises which are in violation of this ordinance or other relevant ordinances of the County, such as, without limitation, the existence of weeds, junk, garbage, and trash on the premises which affect the health and/or safety of the property and/or the occupants of the premises and/or other persons residing in the unincorporated area of the County; and
 - i. Other additional standards, which may from time to time be adopted and referenced herein by ordinance amendment.

14. The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.
15. The Public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this section:
 - a. To investigate the dwelling conditions to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
 - b. To administer oaths and affirmations, to examine witnesses, and to receive evidence;
 - c. To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
 - d. To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the ordinances; and
 - e. To delegate any of his functions and powers under the ordinance to such officers and agents as he may designate
16. Complaints issued by a public officer shall be served in the following manner.
 - a. At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three business days of filing the complaint and at least 14 days prior to the date of the hearing.

- b. For interested parties whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisements appear in such county once a week for two consecutive weeks prior to the hearing.
 - c. A notice of lis pendens shall be filed in the office of the clerk of superior court in the county in which the dwelling, building, or structure is located at the time of filing the complaint in the appropriate court. Such notice shall have the same force and effect as other lis pendens notices provided by law.
 - d. Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this Code section on any interested party who answers the complaint or appears at the hearing. Any interested party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.
 - e. Enforcement of the lien shall be in accordance with O.C.G.A. § 48-4-7, as well as other applicable provisions of this ordinance and state law. In the event of conflict between any of the provisions of this article and state law, state law shall govern.
17. Any person affected by an order issued by the public officer may petition to the superior court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 days of the posting and service of the order of the public officer. De novo hearings shall be had by the court on petitions within 20 days. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not

be necessary to file bond in any amount before obtaining a temporary injunction under this Code section.

18. Monroe County is authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under this section.

19. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of Monroe County to enforce any provisions of its local enabling Act, its charter, or its ordinances or regulations nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by any other law.

20. Nothing in this section shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of this state nor as permitting any property to be condemned or destroyed except in accordance with the police power of this state.

Sec. 5-50. Powers of Public Officers.

1. The public officers designated in this article shall have the following powers:
 - a. To investigate the dwelling conditions in the unincorporated area of the County in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
 - b. To administer oaths and affirmations, to examine witnesses, and to receive evidence;

- c. To enter upon premises for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- d. To delegate any of his or her functions and powers under this ordinance to such officers and agents as may be provided by the County; and
- e. The department is authorized to utilize the in rem enforcement and abatement procedures, including the lis pendens, the issuance of liens and the recording and collection of same, provided by sections 38-63 through 38-65 inclusive of this article in all cases where there exist on the property junk, weeds, grass, junked or abandoned appliances, junked or abandoned automobiles, garbage, trash, or any other conditions which are in noncompliance with or in violation of this article, or any other applicable ordinances, codes, or laws; and the provisions of said sections shall apply fully to the abatement of such conditions.

