

First Reading: The 14 day of November, 2017.

Second Reading: The 4 day of December, 2017.

ORDINANCE NO. 1264

ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF LYONS, GEORGIA TO AMEND CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF LYONS, BY STRIKING AND DELETING ALL ARTICLES, DIVISIONS AND SECTIONS OF CHAPTER 26 AND THEN REPLACING AND RENUMBERING CHAPTER 26 BY INSERTING A NEW ARTICLE AND NEW DIVISIONS AND NEW SECTIONS, AS MORE SPECIFICALLY SET FORTH AS FOLLOWS: ARTICLE I, REGARDING NUISANCES, DIVISION 1, SECTIONS 26-1 THROUGH 26-14, AND RESERVING SECTIONS, 26-15 THROUGH 26-35; DIVISION 2, REGARDING VEGETATION, SECTIONS 26-36 THROUGH 26-40, AND RESERVING SECTIONS 26-41 THROUGH 26-60; DIVISION 3, REGARDING MOSQUITO CONTROL, SECTIONS 26-61 THROUGH 26-66, AND RESERVING SECTIONS 26-67 THROUGH 26-87; DIVISION 4, REGARDING MOTOR VEHICLES, SECTIONS 26-88 THROUGH 26-93, AND RESERVING SECTIONS 26-94 THROUGH 26-114; DIVISION 5, REGARDING BLIGHTED PROPERTY, SECTIONS 26-115 THROUGH 26-122, AND RESERVING SECTIONS 26-123 THROUGH 26-143; DIVISION 6, REGARDING DERELICT PROPERTY, SECTIONS 26-144 THROUGH 26-155, AND RESERVING SECTIONS 26-156 THROUGH 26-176, DIVISION 7, REGARDING NOISE CONTROL, SECTIONS 26-177 THROUGH 26-187, AND RESERVING SECTIONS 26-188 THROUGH 26-210; PROVIDING FOR SEVERABILITY; BY PROVIDING FOR AN EFFECTIVE DATE; BY PROVIDING FOR THE REPEAL ALL CONFLICTING ORDINANCES; AND BY PROVIDING FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of the City of Lyons, Georgia, is empowered pursuant to O.C.G.A. § 36-35-3(a) by the General Assembly to adopt clearly reasonable ordinances relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any Charter provision applicable thereto;

WHEREAS, Chapter 26 of the Code of Ordinances of the City of Lyons, Georgia, relates to Environment, and the City desires to amend same by striking and deleting all Articles, Divisions and Sections of Chapter 26; and

WHEREAS, the City further desires to replace and renumber Chapter 26 by inserting a new Article and new Divisions and new Sections, thereby revising its policies and regulations relating to Environment.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Lyons, Georgia, and it is hereby ordained by the authority of same, that any and all prior or current versions of Chapter 26 of the Code of Ordinances of the City of Lyons are hereby amended by entirely striking and deleting all Articles, Divisions and Sections of Chapter 26 and then replacing and renumbering all such Articles, Divisions and Sections with a new Article and new Divisions and new Sections, inserting Article I, regarding Nuisances, Division 1, Sections 26-1 through 26-14, and reserving Sections 26-15 through 26-35; Division 2, regarding Vegetation, Sections 26-36 through 26-40, and reserving Sections 26-41 through 26-60; Division 3, regarding Mosquito Control, Sections 26-61 through 26-66, and reserving Sections 26-67 through 26-87; Division 4, regarding Motor Vehicles, Sections 26-88 through 26-93, and reserving Sections 26-94 through 26-114; Division 5, regarding Blighted Property, Sections 26-115 through 26-122, and reserving Sections 26-123 through 26-143; Division 6, regarding Derelict Property, Sections 26-144 through 26-155, and reserving Sections 26-156 through 26-176; Division 7, regarding Noise Control, Sections 26-177 through 26-187, and reserving sections 26-188 through 26-210, all of which shall include the following language and read as follows:

SECTION I

ARTICLE I. - NUISANCES

DIVISION 1. - GENERALLY

Sec. 26-1. - Definition.

Sec. 26-2. - Enumeration of nuisances.

Sec. 26-3. - Powers and duties of city manager.

Sec. 26-4. - Prohibited.

Sec. 26-5. - Nuisances constituting imminent danger.

Sec. 26-6. - Issuance of summons for abatement.

Sec. 26-7. - Order for abatement.

Sec. 26-8. - Service on nonresidents and others.

Sec. 26-9. - Other powers preserved.

Sec. 26-10. - Criminal penalties.

Sec. 26-11. - Collection of cost from the owner or parties in interest.

Sec. 26-12. - Right of entry of city manager.

Sec. 26-13. - Remedies.

Sec. 26-14. - Severability clause.

Secs. 26-15. - 26-35. -- Reserved.

Sec. 26-1. - Definition.

A nuisance is anything within the City that causes hurt, inconvenience or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person. Any such nuisance may be abated as provided in this article.

State Law reference - Similar provisions, O.C.G.A. § 41-1-1, as amended.

Sec. 26-2. - Enumeration of nuisances.

(a) The various nuisances described and enumerated in this Section shall not be deemed to be exclusive but shall be in addition to all other nuisances described and prohibited in this Code.

(b) The following are hereby declared to be nuisances:

(1) *Things interfering with peace or comfort.* Sounds, animals or things that interfere with the peace or comfort or disturb the quiet of the community.

(2) *Obnoxious, offensive odors.* The emission of obnoxious and offensive odors; the tainting of the air rendering it offensive or unwholesome so as to affect the health or comfort of a reasonable person residing in the neighborhood thereof.

(3) *Discharging of offensive matter.* The placing or throwing or discharging from any house or premises and flow from or out of any house or premises, of any filthy, foul or offensive matter or liquid of any kind, into any street, alley or public place, or upon any adjacent lot or ground.

(4) *Water pollution.* The obstruction or pollution of any watercourse or source of water supply in the city.

(5) *Emission of dense smoke.* The emission of dense smoke from any fire, chimney, engine, oil burner or other agency in the city so as to cause disturbance or discomfort to the public. For the purpose of testing and grading the density of smoke, the Ringelmann Smoke Chart as published and used by the United States Geological Survey shall be the standard for such grading; and smoke shall be defined and declared to be dense when it is of a degree of density of number three on the chart, or greater, for more than six minutes in anyone hour, whether such period of time is consecutive or not.

(6) *Vacant lots.* Any vacant lot whereon debris is permitted to accumulate and remain in such a manner as to create a fire hazard or other hazard to the public health, safety and welfare.

(7) *Nonconforming structures, machines, etc.* Any building, business, thing, machine or machinery, erected, repaired, conducted, maintained, operated or used contrary to or in violation of any fire and safety regulations of this Code or Georgia law.

(8) *Animal enclosures.* Any enclosure in which any animals are kept, dog kennels or runs and other animal or fowl pens wherein manure, dung, filth or litter is allowed to accumulate.

(9) *Dead animals.* The carcass of any dead animal of any kind on any premises within the city.

(10) *Depositing trash, garbage, refuse, etc., on private or public property.* The depositing and leaving on private or public property of trash, garbage, refuse, scrap building materials, paper, cardboard containers, brick, cement rubbish, tree residue, cans, containers, or any other rubbish and trash that is a menace to public health and safety in the City or which unreasonably annoys another.

(11) *Unoccupied buildings.* Unoccupied buildings that are not properly whitewashed or cleansed.

(12) *Unsafe vehicles, machinery and equipment.* Unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured for a period of 30 days or more, except in licensed junkyards. The absence of a license plate for the current year and/or the absence of a current motor vehicle registration shall be prima facie evidence that such vehicle is junked.

Sec. 26-3. - Powers and duties of city manager.

The City Manager shall exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article and O.C.G.A. §§ 41-2-7-- 41-2-17, as well as the following additional powers:

(1) To appoint and fix the duties of all officers, agents and employees of the City, as he or she deems necessary to carry out the purposes of this Article; and

(2) To delegate any of his or her functions and powers under this Article to such officers, agents and employees, as he or she may designate.

Sec. 26-4. - Prohibited.

It shall be unlawful for any person or entity to maintain or permit the existence of any nuisance on any property within the City.

Sec. 26-5. - Nuisances constituting imminent danger.

Whenever any condition shall exist in the City which constitutes an immediate or grave danger to public health and safety which requires immediate action, the condition may be abated or otherwise remedied summarily and without following any applicable abatement process or procedure required in this Code. Further, notwithstanding anything in this Code to the contrary, the Mayor and City Council shall be authorized to summarily and without the notice abate any nuisance that is a nuisance per se in the law or where the case is an urgent one and the health and safety of the public or a portion thereof is in imminent danger.

Sec. 26-6. - Issuance of summons for abatement.

Whenever any nuisance exists within the City, or whenever any condition shall exist on any property within the City that is required or subject to be demolished, removed or abated under any of the ordinances of the City, and the owner or other responsible person refuses or fails after reasonable notice to demolish, remove or abate the nuisance, the City Manager, or the officer having responsibility for enforcement of this Article, may issue a summons and cause the summons to be served upon such owner or other person responsible for such condition, describing the condition complained of and specifying the ordinances or parts of ordinances claimed to be violated, and requiring such person to appear before the Municipal Judge at a time, date and place specified in the summons, to show cause why such condition should not be demolished, removed or abated.

Sec. 26-7. - Order for abatement.

(a) If the Municipal Judge at the hearing required by Sec. 26-6 shall determine that a condition does exist as alleged that constitutes a nuisance or a condition which under this Code is required or subject to be demolished, removed or abated, the Judge shall issue his or her order and judgment so finding and shall order the property owner or other responsible person to demolish, remove or abate the condition within a period of time to be fixed by the Judge. The order shall provide how the condition is to be abated, including but not limited to rehabilitation or demolition of any buildings or structures located on the property in question. The order shall further provide that if the property owner or other responsible person shall fail to comply with the order within the time specified, the City shall be authorized to proceed without further notice to demolish, remove or abate such condition and to take whatever actions deemed necessary to demolish, remove or abate such condition; and the expense shall be charged against the owner of the property in question and shall be a lien against the property upon which the condition existed, ranking equally with the lien for city taxes.

(b) Execution shall issue for such costs as in the case of city taxes, and the procedure for the enforcement of the execution shall thereafter be the same as in the case of city taxes.

State Law reference -Authorization and procedure for abatement of nuisances in cities, O.C.G.A. § 41-2-5, as amended.

Sec. 26-8. - Service on nonresidents and others.

Whenever it shall be necessary for the City to proceed under Secs. 26-6 and 26-7, and the owner of the property or other responsible person resides outside the City limits, or cannot be found after diligent search, service of the notice required by Sec. 26-6 shall be made by posting a copy of the notice on the property involved, and by publishing the notice in a newspaper having general circulation in the City once a week for four consecutive weeks, the last notice to be not longer than ten days nor less than one day prior to the hearing. Where the address of the person to be served is known, or where there is a last known address, a copy of the notice shall also be mailed to the person at such address by certified mail. In all cases where personal service cannot be made upon such person within the City limits, the case shall proceed as quasi in-rem, and the execution shall issue in-rem.

Sec. 26-9. - Other powers preserved.

Nothing in this Article shall in any way affect the power and authority of the Municipal Judge to punish for any violations which the conditions may constitute, nor shall it affect the power and authority of the Judge to punish by contempt the failure to comply with his or her order.

Sec. 26-10. - Criminal penalties.

In addition to any civil penalties which may be imposed on any violator of this Article, the violation of any provision of this Article shall be subject to punishment under Sec. 1-7 of this Code.

Sec. 26-11. - Collection of cost from the owner or parties in interest.

(a) The owner or parties in interest shall be allowed to satisfy the amount due on any lien created pursuant to this Article by paying to the City within one calendar year after perfection of the lien, the total amount due, together with interest at the rate of ten percent per annum. The City Council shall be authorized to grant an extension of an additional one year for the payment of such lien to prevent hardship on the citizens of the City, with any unpaid balance during such extension to accrue interest at the rate of ten percent per annum.

(b) Should the property upon which such lien is perfected be sold, transferred or conveyed by the owner or parties in interest at any time prior to the termination of such one-year period, then the entire balance due on such lien shall be due and payable to the City.

(c) Should the amount due on such lien, or any portion thereof, be unpaid after the passage of such one-year period, or upon the occurrence of the contingency provided in subsection (b) of this Section, the City may enforce the collection of any amount due on such lien in the same manner as provided in O.C.G.A. § 48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title or interest in or lien upon such property.

Sec. 26-12. - Right of entry of city manager.

For the purpose of enforcing the provisions of this Division or Article, the City Manager, or his or her designee, may at all reasonable times lawfully enter in and upon any premises or structures within the City. However, the City Manager, or his or her designee, is required to seek permission from the owner, authorized agent, or tenant to gain entry onto private property. If permission is not given, the City Manager, or his or her designee, must seek an administrative search warrant from the Municipal Judge or seek other remedies that may be available to the City.

Sec. 26-13. - Remedies.

The City's remedies as provided for in this Article are cumulative of all other remedies the City has for the accomplishment of the objectives set forth in this Article. Nothing in this Article shall be construed to relieve any person or entity from the obligation to comply with any other part of this Code, or to permit the maintenance by any person or entity of a nuisance. Any condition found to be in violation of this Division may be abated in the manner provided for by this Division, unless this Code specifically sets forth other applicable abatement procedures.

Sec. 26-14. - Severability clause.

A determination of the invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, subsection or part of this Chapter or Article shall not affect the validity of any of the remaining parts of this Chapter or Article.

Secs. 26-15. - 26-35. -- Reserved.

DIVISION 2. - VEGETATION

Sec. 26-36. - Certain weeds, grasses, and plants declared a nuisance; exemptions.

Sec. 26-37. - Height permitted.

Sec. 26-38. - Notice to abate.

Sec. 26-39. - Abatement by city; notice of abatement.

Sec. 26-40. - Remedies.

Secs. 26-41. - 26-60. -- Reserved.

Sec. 26-36. - Certain weeds, grasses, and plants declared a nuisance; exemptions.

(a) Any weeds such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind found growing in any lot or tract of land in the City, and any weeds, grasses or plants growing to a height exceeding 12 inches anywhere in the City are hereby declared to be a nuisance, subject to abatement as provided in this Division.

(b) Garden flowers, vegetables, cultivated agricultural crops, ornamental shrubbery and trees shall not be considered weeds, grass or vegetation within the meaning of this Division.

(c) The provisions of this Division shall apply to property located within subdivisions of record in the City, as may be more particularly described on plats of survey recorded in the office of the clerk of the Superior Court of Toombs County, Georgia, and to city lots, as may be more particularly described on the official plat or map of the City in the office of the clerk of the Superior Court of Toombs County, Georgia. The provisions of this Division shall not apply to undeveloped areas of un-subdivided land within the City.

Sec. 26-37. - Height permitted.

It shall be unlawful for the owner, lessee, tenant or other person having the possession and control of real property, or responsible for its management, maintenance or upkeep, to permit the growth and accumulation of weeds, grass or other vegetation to a height in excess of 12 inches above the ground.

Sec. 26-38. - Notice to abate.

(a) For any violation of this Division, the owner of the property shall be given notice to remove excess growth within 7 days from the receipt of the notice. Such notice may be served personally, or may be served by registered or certified mail or by attaching a copy of the notice to the principal entrance of the dwelling, and shall contain a description of the location of the property upon which such condition exists.

(b) Where notice is given by registered or certified mail, the depositing of such notice in the United States mail by registered or certified mail, return receipt requested, addressed to the owner of the property at the address shown on the latest ad valorem tax return of such owner for such property shall constitute sufficient service of such notice, where the return receipt shall be duly returned signed by the addressee or someone residing on the premises, or where the return receipt or other notification from the federal postal service indicates that the notice was refused, or that there was a refusal to sign the return receipt or that delivery of the notice at such address could not be made.

Sec. 26-39. - Abatement by city; notice of abatement.

(a) Upon the failure to comply within the required time by the owner of the property when properly notified pursuant to the provisions of Sec. 26-38, the City is authorized to have a contractor enter the property, and the contractor is authorized to enter the property, and cut and remove the weeds, grass and vegetation. The City shall issue a lot cleaning order to the contractor, who shall promptly perform the work and submit a bill of costs to the City. The City shall inspect the work, and if satisfactory, shall approve the bill of costs for payment and forward it to the City Clerk for payment.

(b) The City Clerk shall promptly send the owner of the property a written statement of account demanding full payment of the bill of costs within 30 days of such statement.

(c) If statement of account under subsection (b) of this section is not made, the City Clerk shall issue a notice directed to the owner of the property and signed by the Municipal Judge, notifying such owner to show cause before the Judge at a time, place and date named in the notice why execution should not issue against the property for amount in the statement of account.

(d) If it shall appear at such hearing that the property was in violation of this Division, that the notice required in Sec. 26-38 was given, that the work was performed, that the City paid the bill of cost, and that the City was not reimbursed for paying the bill of costs, execution shall issue for the amount of the statement of account and shall be executed by the City Clerk in the same manner as tax executions are executed.

(e) If the owner of the property is unknown or cannot be located, the provisions of subsections (b) and (c) of this section shall not apply; in lieu thereof, a notice shall be published once a week for consecutive four weeks in a newspaper of general circulation in the City, which notice shall be addressed "To Whom It May Concern," shall describe with reasonable particularity the property involved; shall provide a statement of the amount due for the removal of the weeds, grass or other vegetation,

and shall notify all persons interested to show cause before the Municipal Judge at a time, place and date named in the notice why execution should not issue in-rem against the property for such amount. In such event, subsection (a) of this Section will apply, but the execution shall issue against the property in-rem.

Sec. 26-40. - Remedies.

The remedies provided in this Division are cumulative of all other remedies the City has for the accomplishment of the objectives set forth in this Division. Nothing in this Division shall be construed as relieving any person from the obligation to comply with this Code or other laws or regulations of the City, or to permit the maintenance by any person of a nuisance, and any nuisance shall be subject to be abated in the manner provided by law.

Secs. 26-41. - 26-60. -- Reserved.

DIVISION 3. - MOSQUITO CONTROL

Sec. 26-61. - Nuisance declared.

Sec. 26-62. - Keeping water in which mosquitoes may breed.

Sec. 26-63. - Treatment of collections of water.

Sec. 26-64. - Mosquito larvae as evidence of breeding.

Sec. 26-65. - Failure to remedy conditions after notice.

Sec. 26-66. - Right of entry of city manager.

Secs. 26-67. -26-87. -Reserved.

Sec. 26-61. - Nuisance declared.

A violation of any provision of this Division is a nuisance.

Sec. 26-62. - Keeping water in which mosquitoes may breed.

(a) It shall be unlawful to have, keep, maintain, cause or permit within the City any collection of standing or flowing water in which mosquitoes breed or are likely to breed unless such collection of water is so treated as to effectually prevent such breeding.

(b) The collections of water prohibited by subsection (a) of this Section shall be those contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets, or other similar water containers.

Sec. 26-63. - Treatment of collections of water.

The method of treatment of any collections of water that are specified in Sec. 26-62 directed toward the prevention of breeding of mosquitoes shall be approved by the City Manager and may be one or more of the following:

- (1) Screening with wire netting of at least 16 meshes to the inch each way, or with any other material that will effectually prevent the ingress or egress of mosquitoes.
- (2) Complete emptying every seven days of unscreened containers, together with their thorough drying and cleaning.
- (3) Using a larvicide approved and applied under the direction of the City Manager.
- (4) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito-destroying fish.
- (5) Filling and draining to the satisfaction of the City Manager.
- (6) Proper disposal by remediation, removal or destruction of any collections of water that are specified in Sec. 26-62.

Sec. 26-64. - Mosquito larvae as evidence of breeding.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there; and failure to prevent such breeding within 3 days after notice by the City Manager shall be deemed a violation of this Division.

Sec. 26-65. - Failure to remedy conditions after notice.

Should the person responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the breeding of mosquitoes, within 3 days after due notice has been given, then the City Manager shall be authorized to do so, and all necessary or appropriate costs incurred by the City Manager for this purpose shall be a charge against the property owner or other person offending, as the case may be.

Sec. 26-66. - Right of entry of city manager.

For the purpose of enforcing the provisions of this Division, the City Manager may at all reasonable times lawfully enter in and upon any premises within the City.

Secs. 26-67. - 26-87. -- Reserved.

DIVISION 4. - MOTOR VEHICLES

Sec. 26-88. - Definitions.

Sec. 26-89. - Prohibited.

Sec. 26-90. - Removal required.

Sec. 26-91. - Notice to owner and state.

Sec. 26-92. - Inoperable vehicles.

Sec. 26-93 - Special provisions for old, unused, stripped, junked automobiles.

Secs. 26-94. - 26-114. -- Reserved.

Sec. 26-88. - Definitions.

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

Abandoned motor vehicle means a motor vehicle or trailer which:

- (1) Has been left by the owner or some person acting for the owner with an automobile dealer, repairman, or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, repairman, or wrecker service when no time is agreed upon; or within 30 days after the completion of necessary repairs;
- (2) Is left unattended on a public street, road, highway or other public property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such motor vehicle unattended does not intend to return and remove such motor vehicle;
- (3) Has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having made claim to the vehicle;

(4) Has been lawfully towed onto the property of another at the request of a property owner on whose property the vehicle was abandoned and left there for a period of not less than 30 days without the owner having made claim to the vehicle; or

(5) Has been left unattended on private property for a period of not less than 30 days without anyone having made claim to the vehicle.

Motor vehicle and vehicle mean motor vehicle or trailer.

Owner means the owner, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Georgia Department of Revenue.

State Law reference -Similar provisions, O.C.G.A. § 40-11-1, as amended.

Sec. 26-89. - Prohibited.

It shall be unlawful for any person either as owner, occupant, lessee, agent, tenant or otherwise, to store or deposit, or cause or permit to be stored or deposited, any abandoned motor vehicle upon any public or private property within the City.

Sec. 26-90. - Removal required.

Any abandoned, junked or discarded motor vehicle shall be removed upon 10 days written notice to the owner or occupant of any premises upon which the motor vehicle is stored or deposited, or to the owner thereof if the identity of such owner of the motor vehicle can be ascertained through license plates or otherwise. If such motor vehicle is not removed after 10 days written notice, the police department of the City shall remove or cause the removal and sale at the cost of the owner or occupant of the premises, or the owner of such motor vehicle, if such owner can be ascertained. Sale shall be made to the highest of two bids obtained for such motor vehicle.

Sec. 26-91. - Notice to owner and state.

(a) Any person who removes a motor vehicle from public or private property at the request of someone other than the owner or who stores any motor vehicle which has been left unattended shall seek the identity of the owner of such vehicle and shall, within 15 days of the day such vehicle became an abandoned motor vehicle, give notice in writing to the Georgia Department of Revenue and the Georgia Bureau of Investigation, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle, and the present

location of such vehicle, and requesting the name and address of all owners, lessors, lessees, security interest holders, and lienholders of such vehicle. If a person removing or storing the vehicle has knowledge of facts which reasonably indicate that the vehicle is registered or titled in a certain other state, he shall check the motor vehicle records of that other state in the attempt to ascertain the identity of the owner of the vehicle.

(b) Upon ascertaining the owner of such motor vehicle, the person removing or storing such vehicle shall within three days, by certified or registered mail, notify the owner, lessors, lessees, security interest holders, and lienholders of the location of such vehicle and of the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

(c) If the identity of the owner of such motor vehicle cannot be ascertained, the person removing or storing such vehicle shall place an advertisement in a newspaper of general circulation in the county where such vehicle was obtained or, if there is no newspaper in the county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the motor vehicle, its license and manufacturer's vehicle identification numbers, the location where such vehicle was initially left unattended by the owner, the present location of such vehicle, and the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

State Law reference-Similar provisions, O.C.G.A. § 40-11-2, as amended.

Sec. 26-92. - Inoperable vehicles.

(a) Except as provided in this Division, the open storage of inoperable or unclaimed operable vehicles on private property is prohibited.

(b) Any person lawfully engaged in the repair of damaged or inoperable vehicles may store such vehicles on private property for a period not to exceed 60 days. Thereafter, any such vehicles shall be screened from view by a fence or shrubbery on all sides of the property on which the vehicles are stored.

(c) Any person lawfully engaged in the operation of a junkyard or salvage yard in accordance with this Code, including but not limited to zoning ordinances, shall ensure that such yards are screened from view on all sides of the property upon which the vehicles are stored. Persons determined to be in violation of this provision shall have a period of six months from the date of finding the violation to install screening as required in this subsection.

(d) A vehicle lacking a current, valid state tag shall be presumed to be inoperable for the purposes of this Section.

Sec. 26-93. - Special provisions for old, unused, stripped, junked automobiles.

(a) Unsheltered storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind that is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more (except in licensed junkyards) within the City is a nuisance.

(b) The owners, tenants, lessees and/or occupants of any lot in the City upon which the storage of property is made, and also the owners and/or lessees of the property involved in such storage shall jointly and severally abate the nuisance by the prompt removal of the property into completely enclosed buildings authorized to be used for such storage purposes, if within the City, or otherwise by removing it to a location outside of the City.

Secs. 26-94. - 26-114. -- Reserved.

DIVISION 5. - BLIGHTED PROPERTY

Sec. 26-115. - Short title.

Sec. 26-116. - Purpose.

Sec. 26-117 - Definitions.

Sec. 26-118. - Ad valorem tax increase on blighted property.

Sec. 26-119. - Identification of blighted property.

Sec. 26-120. - Remediation or redevelopment.

Sec. 26-121. - Decrease of tax rate.

Sec. 26-122. - Notice to tax commissioner.

Secs. 26-123. - 26-143. -- Reserved.

Sec. 26-115. - Short title.

This Division shall be known as the "Blighted Property Ordinance."

Sec. 26-116. - Purpose.

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such

government services. In furtherance of its objective to eradicate conditions of slum and blight within the City, the governing authority of the City of Lyons, in exercise of the powers granted to municipal corporations at O.C.G.A. Title 36, Chapter 61, Urban Redevelopment, has designated those areas of the City where conditions of slum and blight are found or are likely to spread. In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvement thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII (d) of the 1983 Constitution of the State of Georgia.

Sec. 26-117. - Definitions.

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

Blighted property, blighted, or blight means any urbanized or developed property which:

(1) Presents two or more of the following conditions:

(a) Uninhabitable, unsafe, or abandoned structure;

(b) Inadequate provisions for ventilation, light, air, or sanitation;

(c) An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the Governor has declared a state of emergency under the Georgia law or has certified the need for disaster assistance under federal law; provided, however, this Division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding harm caused by the property and the owner has failed to take reasonable measures to remedy the harm;

(d) A site identified by the Federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601 et seq., as amended, or having environmental contamination to an extent that requires a remedial investigation or feasibility study;

(e) Repeated illegal activity on the property of which the property owner

knew or should have known; or

(f) The maintenance of the property is below state, county, or municipal laws or codes for at least one year after written notice of the legal or code violation to its owner; and

(2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

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

Building inspector means a certified inspector possessing the requisite qualifications to determine minimal code compliance.

Community redevelopment means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or thorough local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.

Governing authority means the City Council of the City of Lyons, a Georgia.

Millage or millage rate means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction's general fund expenses for the fiscal year.

Person means such individual(s), partnership, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.

Public officer means the City Manager or such officer or employee of the City as designated by the City Manager to perform the duties and responsibilities hereafter set forth in this Division.

Sec. 26-118. - Ad valorem tax increase on blighted property.

(a) There is hereby levied on all real property within the City which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven to the millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the City, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or

more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.

(b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.

(c) Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the City Manager and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the City's program to close, repair, or demolish unfit building and structures.

Sec. 26-119. - Identification of blighted property.

(a) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:

(1) An inspection must be performed on the parcel of property. In order for an inspection to be performed:

(A) A request may be made by the public officer or by at least five residents of the City for inspection of a parcel of property, said inspection to be based on the criteria as delineated by ordinance; or

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

(2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the City are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.

(3) Following completion of the inspection report, the public officer shall make a determination, in writing, that a property is maintained in a blighted condition, as

defined by this Division, and is subject to increased taxation.

(4) The public officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Toombs County, Georgia, as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, except that posting of the notice on the property will not be required.

(5) The written notice given to the person(s) chargeable with the payment of ad valorem taxes shall notify such person of the public officer's determination the real property is being maintained in a blighted condition and shall advise such person of the hours and location at which the person may inspect and copy the public officer's determination and any supporting documentation. Persons notified that real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of notice in which to request a hearing before the Municipal Judge. Written request for hearing shall be filed with the public officer and shall be date stamped upon receipt. Upon receipt of a request for hearing, the public officer shall notify the Municipal Judge and the building inspector or person who performed the inspection and prepared the inspection report.

(6) Within 30 days of the receipt of a request for hearing, the City Clerk shall set a date, time and location for the hearing and shall give at least 10 business days notice to the person(s) requesting the hearing, the public officer and the building inspector or person who performed the inspection and prepared the inspection report. Notice of scheduled hearing shall be published as a legal advertisement in *The Advance*, or other designated legal organ in Toombs County, Georgia, at least 5 days prior to the hearing. Hearings may be continued by the Municipal Judge upon request of any party, for good cause.

(7) At the hearing, the public officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this Division. The Municipal Judge shall cause a record of the evidence submitted at the hearing to be maintained. Upon hearing from the public officer and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the Municipal Judge shall make a determination either affirming or reversing the determination of the public officer. The determination shall be in writing and copies

thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the court shall be deemed final. A copy of such determination shall also be served upon the Tax Commissioner of Toombs County, Georgia, who shall include the increased tax on the next regular tax bill rendered on behalf of the City.

(8) Persons aggrieved by the determination of the Municipal Court affirming the determination of the public officer may petition the Superior Court of Toombs County, Georgia, for a writ of certiorari within 30 days of issuance of the Court's written determination.

Sec. 26-120. - Remediation or redevelopment.

(a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this Division as property maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance with the following:

(1) Completion of work required under a plan of remedial action or redevelopment approved by the City's planning and development director which addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; or

(2) Completion of work required under a court order entered in a proceeding brought pursuant to Division 6 of this Chapter.

(b) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector who, by written inspection report, shall certify that all requisite work has been performed in compliance applicable codes in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Toombs County, Georgia.

(c) All plans for remedial action or redevelopment shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the director of the City's planning and development department, and contain the following:

(1) The plan shall be consistent with the City's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban

redevelopment plan adopted for the area within which the property lies;

(2) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with any applicable minimum statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property;

(3) On parcels of 5 acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;

(4) The plan shall contain verifiable funding sources which will be used to complete its requirements and show the feasibility thereof;

(5) The plan shall contain a timetable for completion of required work; and

(6) Any outstanding ad valorem taxes (state, school, county and city, including the increased tax pursuant to this division) and governmental liens due and payable on the property must be satisfied in full.

Sec. 26-121. - Decrease of tax rate.

(a) Real property which has had its designation as maintained in a blighted condition removed by the public officer, as provided in this division, shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.5 to the City millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the City or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every \$25,000.00 or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in city ad valorem taxes for more than four successive years.

(b) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

Sec. 26-122. - Notice to tax commissioner.

It shall be the duty of the public officer to notify the Tax Commissioner of Toombs County, Georgia, in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and by tax map and parcel number, as assigned by the Tax Assessor of Toombs County, Georgia. The public officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this Division.

Secs. 26-123.-26-143. -- Reserved.

DIVISION 6. - DERELICT PROPERTY

Sec. 26-144. - Short title.

Sec. 26-145. - Purpose.

Sec. 26-146. - Definitions.

Sec. 26-147. - Declaration of public nuisance.

Sec. 26-148 - Duty of owners of real property and structures thereon.

Sec. 26-149. - Powers of public officer or his or her agent or designee.

Sec. 26-150. - Determination of derelict property; proceedings in municipal court; procedure after court finds property derelict; lien; other powers; appeal.

Sec. 26-151. - Service of complaints or orders upon owners and parties in interest.

Sec. 26-152. - Eminent domain.

Sec. 26-153. - Right to enter and inspect.

Sec. 26-154. - Code of Georgia.

Sec. 26-155. - Limitation of liability for code enforcement; no special duty created.

Secs. 26-156. -26-176. -- Reserved.

Sec. 26-144. - Short title.

This Division shall be known as the "Derelict Property Ordinance."

Sec. 26-145. - Purpose.

The governing authority of the City of Lyons, Georgia, finds and declares that, in the City, there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with general nuisance law, or the applicable

state minimum standard codes, as adopted by ordinance or operation of law, or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance where such properties are located, and which constitute a hazard to the health, safety, and welfare of the people of this state and the City, and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures in the city. Further, the governing authority finds and declares that in the City there is in existence conditions or uses of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of this state and the City, and that a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. Whenever the governing authority of any municipality of this state finds that there exist in such municipality dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or where other conditions exist rendering such dwellings, buildings, or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of such municipality, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, power is conferred upon such municipality to exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the applicable manner provided in O.C.G.A. Title 41, Chapter 2.

The governing authority of the City hereby adopts into this Division provisions consistent with those in O.C.G.A. §§ 41-2-7 through 41-2-17, as amended, including the method and procedure, to be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. As permitted by Georgia law, the governing authority of the City further declares that a finding by any governmental health department, health officer, or building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this Code.

Sec. 26-146. - Definitions.

(a) *Specific terms defined.* As used in this Chapter, the following words, terms and definitions shall apply:

Applicable codes means (A) any optional housing or abatement standard provided in

O.C.G.A. Title 8, Chapter 2, as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (B) any fire or life safety code as provided for in O.C.G.A. Title 25, Chapter 2; 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. Title 8, Chapter 2 after October 1, 1991, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

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

Drug crime means an act which is a violation of O.C.G.A. Title 16, Chapter 13, Article 2, known as the "Georgia Controlled Substances Act."

Dwellings, buildings, or structures means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in this Division, the term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Governing authority means the City Council of the City of Lyons, Georgia.

Graffiti means any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface without prior authorization from the owner or occupant of the property.

Interested party means:

Owner;

Persons in possession of said property and premises;

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;

Those parties having filed a notice in accordance with O.C.G.A. § 48-3-9;

Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the municipality or records maintained in the county courthouse or by the clerk of court; provided, however, interested party shall not include the holder of the benefit or burden of any easement or right-of-way whose interest is properly recorded which interest shall remain unaffected; and

Persons in possession of said property and premises.

Municipality means the City of Lyons, Georgia.

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

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

Public officer means the officer or officers who are authorized by O.C.G.A. § 41-2-7 and O.C.G.A. §§ 41-2-9 through 41-2-17 or any agent of such officer or officers, and the City Manager, or his or her proper designee.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes in the jurisdiction where the property is located and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building, or structure.

Resident means any person residing in the jurisdiction where the property is located on

or after the date on which the alleged nuisance arose.

(b) Definitions incorporated by reference. To the extent not stated above, the definitions set forth in O.C.G.A. § 41-2-8, as amended, are incorporated herein by reference.

Sec. 26-147. - Declaration of public nuisance.

Every dwelling, building, or structure within the City which (i) is constructed or maintained in violation of the applicable ordinance or ordinances in force in the City; (ii) is unfit for human habitation or commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation, light, air, sanitation, or open spaces; (iii) poses an imminent harm to life or other property due to fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe; (iv) is vacant and used in the commission of drug crimes; (v) is occupied and used repeatedly for the commission of illegal activities, including facilitating organized crime or criminal enterprises, after written notice to the owner of such activities conducted therein; (vi) is abandoned; or (vii) otherwise constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, is hereby declared a public nuisance. Every private property within the City on which is being regularly conducted any activity or land use in violation of applicable laws and ordinances, including the zoning ordinance of this City, is hereby declared to be a public nuisance. Property which may be deemed esthetically substandard or deteriorating shall not meet the definition of a public nuisance unless the overall condition or use of the property results in impaired health, safety, transmission of disease, infant mortality, or crime. Moreover, any property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity thereof is illegal and in violation of this division, and a finding by any governmental health department, health officer or public officer that such property is a health or safety hazard shall constitute prima-facie evidence that such property is in violation of this Division.

Sec. 26-148. - Duty of owners of property and structures thereon.

It is the duty of the owner of every dwelling, building, structure, or property within the City to construct and maintain such dwelling, building, structure, or property in conformance with the applicable ordinance or ordinance in force in the City or such laws and 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 use private property in violation of such codes or ordinances.

Sec. 26-149. - Powers of public officer or his or her agent or designee.

(a) The public officer, or his or her agent or designee, shall be authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Division, in addition to those powers otherwise conferred upon or delegated to him or her by the City Charter and any other ordinance of the City, including but not necessarily limited to:

(1) Investigate and inspect the condition of dwellings, buildings, structures, and private property within the City to determine those structures and property uses in violation of this division. Entries onto private property shall be made in a manner so as to cause the least possible inconvenience; provided, however, the public officer shall not enter into any occupied dwelling or structure without first having obtained the consent of the owner or a person in possession. In those cases where consent to entry is denied after reasonable request, the public officer may apply to the Municipal Judge for an administrative search warrant upon showing probable cause that a violation exists;

(2) To retain experts including certified real estate appraisers, qualified building contractors, and qualified building inspectors, engineers, surveyors, accountants, and attorneys;

(3) To appoint and fix the duties of such officers and employees of the city as he deems necessary to carry out the purposes of this Division; and

(4) To delegate any of his functions and powers under this Division to such officers, employees and agents as he may designate.

(b) In addition to the procedures set forth in this division, the City Manager or his designee(s) may issue citations for violations of state minimum standard codes, optional building, fire, life safety and other codes adopted by ordinance, and conditions declared to constitute a public health or safety hazard or general nuisance, and to seek enforcement of such citations before the Municipal Judge before issuing a complaint in rem as provided in this Division.

Sec. 26-150. - Determination of derelict property; proceeding in municipal court; procedure after court finds property derelict; lien; other powers; appeal.

(a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the City charging that any dwelling, building, structure, or property is

unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his findings. 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, on or at such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of the City. Such building, dwelling, or structure is illegal and shall be abated by repair or demolition in accordance with this Division. In making his or her determination, the public officer may be guided by the existence of one or more of following conditions, though the existence of such conditions shall not limit his discretion to consider other similar conditions:

- (1) Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
- (2) Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire resistive ratings, which is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
- (3) The stress in any material, member or portion thereof, due to all imposed loads including dead load, exceeds the stresses allowed in the Georgia State Building Code for new buildings.
- (4) The building, dwelling or structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to damage and is less than the minimum requirement established by the Georgia State Building Code for new buildings.
- (5) Any exterior appendage or portion of the building, dwelling or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Georgia State Building Code for new buildings.

(6) If for any reason the building, dwelling, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.

(7) The building, dwelling, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

(8) The building, dwelling, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the standard codes or of the City or Georgia law.

(9) Any building, dwelling, structure or portion thereof that is in such a condition as to constitute a public nuisance.

(10) Any building, dwelling, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise a danger to human life, or which in relation to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, disrepair, uncleanness, structural defects, dilapidation, obsolescence, abandonment, or any defects to any building, structure or dwelling or portion thereof increasing the hazards of fire, accidents, or other calamities.

(b) Whenever a request is filed with the public officer by a public authority or by at least five residents of the City charging that any dwelling, building, structure, or property is vacant, dilapidated, and being used in the commission of drug crimes, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his findings. The public officer may determine, under existing ordinances, that the dwelling, building, structure or property is vacant, dilapidated and being used in the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed

(c) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall file a complaint in-rem in the Municipal Court of the City against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties in such dwelling, building, or structure. The complaint shall identify the subject

real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the Municipal Court at a date and time certain and at a place within the City 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.

(d) 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 the applicable ordinance or ordinances; 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 Municipal Court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

(1) If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable ordinance or ordinances relevant to the cited violation; and, if applicable, to secure by closing the structure so that it cannot be used in connection with the commission of drug crimes; or

(2) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable ordinance or ordinances 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; provided that, no person shall begin demolition until a permit for demolition has been obtained from the City and all utilities have been cut off and capped at the street, and the person who has secured the permit shall remove from the property all debris, trash, litter, rubbish, rubble and foundation exposed above the ground level, and fill any excavation or other depressions to existing grade with clean dirt containing no more than 25 percent stone or masonry, and adequately slope and drain all filled areas as determined by the public officer.

For purposes of this Section, the Court shall make its determination of reasonable cost in relation to the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered; and, provided further, that if the unsatisfactory condition is limited solely to the presence of graffiti, the dwelling, building or structure shall not be ordered demolished or closed, but its owner may be ordered to repair the same by cleaning or removal of the graffiti. Income and financial status of the owner shall not be a factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in O.C.G.A. Title 43, Chapter 39A, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable ordinance or ordinances relevant to the cited violations in force in the jurisdiction.

(e) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer shall cause such dwelling, building, or structure to be repaired, altered, or improved, or to be vacated and closed, or demolished within 270 days of the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to subsection (d) of this Section or any equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action shall commence. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."

(f) If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be

made without the necessity of public advertisement and bid. The public officer and governing authority are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials. Further, the amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the Tax Commissioner of Toombs County, Georgia, or the City tax collector or 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.

(g) The lien provided for in subsection (f) 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 Toombs County, Georgia, and shall relate back to the date of the filing of the lis pendens notice required under Sec. 26-151. The Clerk of the Superior Court of Toombs County, Georgia, shall record and index such certified copy of the order in the deed records of the Toombs County, Georgia 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.

(h) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the public officer responsible for enforcement actions in accordance with this Division shall transmit to the appropriate county tax commissioner or municipal tax collector or revenue officer 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 appropriate county tax commissioner or municipal tax collector or revenue officer, who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically O.C.G.A. Title 48, Chapter 4; provided, however, that the limitation of O.C.G.A. § 48-478 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The Toombs County Tax Commissioner shall collect and enforce municipal liens imposed pursuant to this Division in accordance with O.C.G.A. § 48-5-359.1. The Toombs County Tax Commissioner or municipal tax collector or revenue officer shall remit the amount collected to the governing authority of the City in connection with the lien collected.

(i) Enforcement of liens pursuant to this Division may be initiated at any time following receipt by the Toombs County Tax Commissioner or municipal tax collector or revenue

officer of the final determination of costs in accordance with this Division. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to O.C.G.A. § 48-4-78 for delinquent ad valorem taxes may include all amounts due under this Division.

j) The redemption amount in any enforcement proceeding pursuant to this Division shall be the full amount of the costs as finally determined in accordance with this Division together with interest, penalties, and costs incurred by the governing authority, Toombs County Tax Commissioner, or municipal tax collector or revenue officer 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.

(k) The governing authority of the City may waive and release any such lien imposed on property upon the owner of such property entering 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 and demonstrating the financial means to accomplish such rehabilitation.

(l) Where the abatement action does not commence in the 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.

(m) In addition to the procedures and remedies in this Division, a governing authority of the City may provide by ordinance that designated public officer may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and seek to enforce such citations in a court of competent jurisdiction prior to issuing a complaint in-rem as provided in this division.

(n) Nothing in this Division shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. 26-151. - Service of complaints or orders upon owners and parties in interest.

(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 Toombs County, Georgia, 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 Division 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) The public officer may cause an affidavit of service to be filed of record in the Municipal Court prior to the hearing showing compliance with the service requirements of this Section. Such affidavit shall constitute a prima facie showing of minimum procedural due process and shall constitute sufficient proof that service was perfected.

Sec. 26-152. - Eminent domain.

Nothing in this Division or Chapter shall be construed to prevent the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the State of Georgia or to permit any property to be condemned or destroyed except in accordance with the police power of this state. Procedures under this Division and Chapter shall not constitute the exercise of the power of eminent domain by the City.

Sec. 26-153. - Right to enter and inspect.

The public officer, or designee, or any person authorized to enforce this Division or

Chapter, and any sworn officer of the City's police department shall be empowered to enter any property and structure at reasonable times to inspect the condition or work being performed thereon or therein.

Sec. 26-154. - Code of Georgia.

Any reference to the Official Code of Georgia Annotated or O.C.G.A. shall include any amendment to a cited section as subsequently adopted.

Sec. 26-155. - Limitation of liability for code enforcement; no special duty created.

It is the intent of this Division to protect the public health, life, safety and general welfare of properties and occupiers of buildings and structures within the City in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City. Approval of a permit and inspection of a property shall in no manner guarantee or warrant to the owner or occupants thereof that said property has been constructed, maintained, or operated in conformance with applicable codes, laws and regulations. The City reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the City, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any federal or state law, regulation, or ordinance requires compliance as a condition precedent to the issuance of a permit, plan or design approval, inspection or other activity by the City, its officers, employees and agents, issuance of such permit, approval, or inspection shall not be deemed to constitute a waiver or estoppel of the condition precedent, and it shall remain the obligation and responsibility of the owner, his design professional(s), and contractor(s) to satisfy such legal requirements.

Secs. 26-156. - 26-176. -- Reserved.

DIVISION 7. -NOISE CONTROL

Sec. 26-177. - Short title.

Sec. 26-178. - Definitions.

Sec. 26-179. - Purpose.

Sec. 26-180. - Sound or noise measurement standards for law or ordinance enforcement personnel.

Sec. 26-181. - Restrictions of 600 feet from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday and from 7:00 a.m. through 12:00 midnight

on Friday or Saturday.

Sec. 26-182. - Restrictions of 300 feet from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday and from 12:00 midnight through 7:00 a.m. on Saturday or Sunday.

Sec. 26-183. - Exclusions.

Sec. 26-184. - Other restrictions regarding gasoline-powered landscape maintenance devices, equipment, and machines.

Sec. 26-185. - Construction noise.

Sec. 26-186. - Request for temporary relief or stay.

Sec. 26-187. - Enforcement procedures.

Sees. 26-188. -26-210. - Reserved.

Sec. 26-177. - Short Title.

This Division shall be known as the "Noise Control Ordinance".

Sec. 26-178. - Definitions.

Person means any individual, partnership, firm, association, joint venture, public or private corporation or company, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body, or any other legal entity.

Sec. 26-179. - Purpose.

This Division is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City of Lyons, Georgia, through the control of sound or noise. It is the intent of this Division to establish standards that will reduce excessive community sound or noise, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business.

Sec. 26-180. - Sound or noise measurement standards for law or ordinance enforcement personnel.

For the purposes of this Division, "plainly audible" means the sound emanating from any sound-producing source, as set forth below, which can be heard from the distances set forth below, using the following sound measurement standards: measurement shall be by the auditory senses of a person standing at a distance of no less than the required minimum distance from the sound-producing source. For music or any other sound or noise, bass reverberations are included, and words and phrases need not be discernible.

Sec. 26-181. - Restrictions of 600 feet from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday and from 7:00 a.m. through 12:00 midnight on Friday or Saturday.

(a) Mechanical sound-producing devices. It is unlawful for a person to use or operate, or to permit to be used or operated, any radio, television, stereo, musical instrument, loud speaker, phonograph or sound amplifier, or other machine or device, to produce, reproduce or amplify sound, so that the sound is plainly audible at a distance more than 600 feet from the sound-producing source, from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 7:00 a.m. through 12:00 midnight on Friday or Saturday.

(b) Human produced sounds. It is unlawful for a person to yell shout, whistle or sing, or to produce or create any other sound, so that the sound is plainly audible at a distance of more than 600 feet from the sound-producing source, from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 7:00 a.m. through 12:00 midnight on Friday or Saturday.

(c) Commercial advertising. It is unlawful for a person to use or operate, or to permit to be used or operated, any radio, television, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device, to produce, reproduce or amplify sound, so that the sound is plainly audible at a distance of more than 600 feet from the sound-producing source, from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 7:00 a.m. through 12:00 midnight on Friday or Saturday.

(d) Businesses near residential zoning districts. Notwithstanding the prohibitions in paragraphs (a) through (c) above, it shall be unlawful for a person to operate, or to permit to be operated, a business that produces sound, so that the sound is plainly audible within any residential zoning district at a distance of more than 600 feet from the property boundary of the person's business, from 7:00 a.m. through 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 7:00 a.m. through 12:00 midnight on Friday or Saturday.

Sec. 26-182. - Restrictions of 300 feet from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday and from 12:00 midnight through 7:00 a.m. on Saturday or Sunday.

(a) Mechanical sound-producing devices. It is unlawful for a person to use or operate,

or to permit to be used or operated, any radio, television, stereo, musical instrument, loud speaker, phonograph or sound amplifier, or other machine or device, to produce, reproduce or amplify sound, so that the sound is plainly audible at a distance of more than 300 feet from the sound-producing source, from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 12:00 midnight and 7:00 a.m. on Saturday or Sunday.

(b) Human produced sounds. It is unlawful for a person to yell, shout, whistle or sing, or to produce or create any other sound, so that the sound is plainly audible at a distance of more than 300 feet from the sound-producing source, from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 12:00 midnight and 7:00 a.m. on Saturday or Sunday.

(c) Commercial advertising. It is unlawful for a person to use or operate, or to permit to be used or operated, any radio, television, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device, to produce, reproduce or amplify sound, so that the sound is plainly audible at a distance of more than 300 feet from the sound-producing source, from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 12:00 midnight and 7:00 a.m. on Saturday or Sunday.

(d) Businesses near residential zoning districts. Notwithstanding the prohibitions in paragraphs (a) through (c) above, it shall be unlawful for a person to operate, or to permit to be operated, a business that produces sound, so that the sound is plainly audible within any residential zoning district at a distance of more than 300 feet from the property boundary of the person's business, from 11:00 p.m. through 7:00 a.m. on Sunday, Monday, Tuesday, Wednesday or Thursday, or from 12:00 midnight and 7:00 a.m. on Saturday or Sunday.

Sec. 26-183. - Exclusions.

(a) The prohibitions of this article shall not apply to:

(1) any sound or noise made for the purpose of alerting persons to the existence of an emergency or any sound or noise that is made in the performance of emergency work;

(2) any sound or noise emanating from any school activity or any organized athletic activity, including but not limited to any game, match, practice and performance;

- (3) any sound or noise made by law enforcement personnel or a public employee in the performance of a public function or duty;
- (4) any sound or noise made by domestic animals, which noises or sounds are controlled by Sec. 10-3 of this Code;
- (5) any sound or noise made by a burglar or vehicle alarm;
- (6) any sound or noise made by any church chime or bell;
- (7) any sound or noise emanating from any activity, concert, event, festival or performance as may be permitted by the City Manager, or his or her designee;
- (8) any sound or noise produced by radio, tape player, or other mechanical noise or sound making device or instrument from within a motor vehicle on a street or highway, which sound or noise is controlled by the O.C.G.A. § 40-6-14;
- (9) any sound or noise created or produced in connection with any government construction or maintenance project or any utility company construction or maintenance project; and
- (10) any sound or noise created or produced by any railroad, air or mass public transportation vehicle.

Sec. 26-184. - Other restrictions regarding gasoline-powered landscape maintenance devices, equipment, and machines.

Notwithstanding anything in this Division to the contrary, it is unlawful for a person to use or operate, or to permit to be used or operated, any gasoline-powered landscape maintenance device, equipment and machine, including but not limited to a leaf blower, lawn mower, chain saw, edger, hedger or weed-eater, within a residential zoning district or at a location within 600 feet of a residential zoning district, from 8:00 p.m. through 8:00 a.m., except that, within an agricultural zoning district, no person shall use or operate, or permit to be used to be used or operated, any such device, equipment or machine within 600 feet of a residential dwelling from 9:00 p.m. through 7:00 a.m.

Sec. 26-185. - Construction noise.

Notwithstanding anything in this Division to the contrary, it is unlawful for a person to

use or operate, or to permit to be used or operated, any device, machine or equipment, including but not limited to an earth mover, crane, saw, drill, pile driver, steam shovel, pneumatic hammer, hoist, automatic nailer or stapler, which produces sound that is plainly audible within a residential zoning district from a distance of more than 300 feet from the property boundary of the person who is operating such device, machine or equipment from 11:00 p.m. through 6:00 a.m.

Sec. 26-186. - Request for temporary relief or stay.

(a) Any person requesting temporary relief or stay from the enforcement of this ordinance shall file a written request for a special administrative permit for a period not to exceed 30 days, and such person shall do so by filing the request with the City Clerk for consideration by the City Manager. The City Manager has the discretion to grant or deny the permit (with such conditions as may be warranted), if strict enforcement of this Division will result in exceptional and undue hardship to the applicant. The request for the permit shall be on a form as prescribed by the City Manager, and at a minimum, the form shall include: 1) any negative impact that a denial of the request would have on the applicant's project or activity, 2) any positive and negative impact that the a grant of the request would have on the owners of surrounding and nearby properties, 3) all steps taken by the applicant to notify and explain the project or activity to the owners of surrounding and nearby property, 4) all steps that have been and will be taken to minimize any negative impact of the project or activity on the owners of surrounding and nearby property, and 5) all possible risks to public safety and health.

(b) Any permit may be revoked by the City Manager, and the City Manager may withhold the issuance of future permits if: 1) there is any violation of any condition of the permit, 2) there is any material misrepresentation of any fact in the request for the permit, or 3) if there is any material change in any circumstance relied upon by the City Manager in granting the permit.

(c) Notwithstanding anything in this Division to the contrary, no special administrative permit shall be authorized to delete, modify or change in any way any requirement imposed as a condition of zoning or as a condition of a special or conditional land use imposed by the City Council.

(d) Appeals from any decision concerning a special administrative permit shall be made to the City Council, by filing a written notice of appeal with the City Clerk within 30 days the City Manager's decision regarding any special administrative permit.

Sec. 26-187. - Enforcement procedures.

(a) The City may prosecute violations of the Division by issuance of a citation, and in such cases, the penalty for a violation shall be as set forth in Sec. 1-7 of this Code. With respect to a violation of any provision of this Division that is continuous with respect to time, each day the violation continues is a separate offense. With respect to a violation of any provision of this Division that is not continuous with respect to time, each act constitutes a separate offense.

(b) In addition to the penalties set forth in Sec. 1-7 or in lieu thereof, the Municipal Court may issue an order requiring the immediate abatement of any sound found to be in violation of this Division.

(c) No provision of this Division shall be construed so as to impair any other equitable or legal remedy that any person may have for any injury or damage arising out of a violation of this Division.

Secs. 26-188. - 26-210. -- Reserved.

SECTION II

All provisions of the Code of Ordinances of the City of Lyons, Georgia, or parts thereof that are in conflict herewith are hereby expressly repealed.

SECTION III

This Ordinance shall be codified and shall become effective upon its adoption in a manner consistent with the laws of the State of Georgia and the City of Lyons, Georgia.

SECTION IV

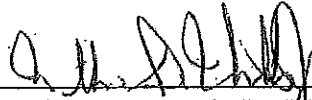
It is the intention of the governing body of the City of Lyons, Georgia, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City Lyons, Georgia, and the sections of this Ordinance may be renumbered to accomplish such intention.

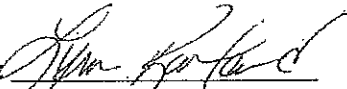
SECTION V

The effective date of this Ordinance shall be the date of its approval by the Council of the City of Lyons, Georgia.

Approved and ordained by the Mayor and Council of the City of Lyons, Georgia,
this 4 day of December, 2017.

CITY OF LYONS, GEORGIA

BY: 
Willis D. NeSmith, Jr., Mayor

Attest: 
Lynn Rowland
City Clerk

[CORPORATE SEAL]

