

1 **STATE OF GEORGIA**

2 **CITY OF LITHONIA**

3 **ORDINANCE NO. 2021-05-17**

4 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF LITHONIA,
5 GEORGIA, BY ADDING ARTICLE I (BLIGHT); TO PROVIDE FOR SEVERABILITY; TO
6 PROVIDE FOR CODIFICATION; TO PROVIDE AN ADOPTION AND EFFECTIVE DATE;
7 AND FOR OTHER LAWFUL PURPOSES.

8 **WHEREAS**, the duly elected governing authority of the City of Lithonia, Georgia (the
9 “City”) is the Mayor and Council thereof; and

10 **WHEREAS**, the City of Lithonia is authorized by O.C.G.A. §36-35-3 to adopt ordinances
11 relating to its property, affairs, and local government; and

12 **WHEREAS**, the City’s Code of Ordinances should be amended and updated in order to
13 provide for the proper regulation of land and water management, in order to comply with current
14 Georgia law, and

15 **WHEREAS**, the Mayor and City Council have determined that it is appropriate to amend
16 said sections of the Code of Ordinances of the City of Lithonia to be consistent with state law and
17 to further protect the public health, safety, and welfare of the citizens of the City.

18 **NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR**
19 **AND COUNCIL OF THE CITY OF LITHONIA, GEORGIA** and by the authority thereof:

20 **Section 1.** The City of Lithonia, Georgia’s Code of Ordinances is amended by adding
21 Article I. (Blight), to read as follows:

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24 **Article I (Blight)**

25 **Chapter 1. Derelict Property**

26 **Sec. 101. Short Title.**

27

28 This Chapter shall be known as the “ Lithonia Derelict Property Ordinance.”

29 **Sec. 102. Definitions.**

30 As used in this article, the term:

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32 (a) *Applicable codes* means any optional housing or abatement standard provided in O.C.G.A.
33 title 8, chapter 2 as adopted by ordinance or operation of law, or other property-
34 maintenance standards as adopted by ordinance or operation of law, or general nuisance
35 law, relative to the safe use of real property; any fire or life safety code as provided for in
36 O.C.G.A. title 25, chapter 2; and any building codes adopted by local ordinance prior to
37 October 1, 1991, or the minimum standard codes provided in O.C.G.A. title 8, chapter 2
38 after October 1, 1991, provided that such building or minimum standard codes for real-
39 property improvements shall be deemed to mean those building or minimum standard
40 codes in existence at the time such real property improvements were constructed unless
41 otherwise provided by law.

42

43 (b) *Closing* means causing a dwelling, building, or structure to be vacated and secured against
44 unauthorized entry.

45

46 (c) *Drug crime* means an act which is a violation of O.C.G.A. title 16, chapter 13, article 2,
47 known as the "Georgia Controlled Substances Act".

48

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

57

58 (e) *Graffiti* means any inscriptions, words, figures, paintings, or other defacements that are
59 written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise

60 affixed to any surface of public or private property by means of any aerosol paint container,
61 broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or
62 other device capable of scarring or leaving a visible mark on any surface without prior
63 authorization from the owner or occupant of the property.

64 (f) *Governing authority* means the City Council of the City of Lithonia, Georgia.

65 (g) *Interested party* means:

66

67 (1) The "owner";

68

69 (2) Persons in possession of said property and premises;

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71 (3) Those parties having an interest in the property as revealed by a certification of title
72 to the property conducted in accordance with the title standards of the State Bar of
73 Georgia;

74

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

76

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

82

83 (h) *Municipality* means the City of Lithonia, Georgia.

84

85 (i) *Owner* means the holder of the title in fee simple and every mortgagee of record.

86

87 (j) *Public authority* means any member of the governing authority, any director of a public
88 housing authority, or any officer who is in charge of any department or branch of
89 government (municipal, county or state) relating to health, fire, life safety, building
90 regulations, or to other activities concerning dwellings, buildings, or structures, or use of
91 private property within the city.

92

93 (k) *Public officer* means the city manager, who is authorized to exercise the powers prescribed
94 by article, and any officer or employee of the city to whom he delegates such authority.

95
96 (l) *Repair* means altering or improving a dwelling, building, or structure so as to bring the
97 structure into compliance with the applicable codes in the jurisdiction where the property
98 is located and the cleaning or removal of debris, trash, and other materials present and
99 accumulated which create a health or safety hazard in or about any dwelling, building, or
100 structure.

101
102 (m) *Resident* means any person residing in the jurisdiction where the property is located on or
103 after the date on which the alleged nuisance arose.

104
105 **Sec. 103. Duty of owners of real property and structures thereon.**

106
107 It is the duty of the owner of every dwelling, building, structure, or private property within the
108 jurisdiction to construct and maintain such dwelling, building, structure, or property in
109 conformance with applicable codes in force within the city or such laws and ordinances which
110 regulate and prohibit activities on private property and which declare it to be a public nuisance to
111 construct or maintain any dwelling, building, structure, or use private property in violation of such
112 codes, laws or ordinances.

113
114 **Sec. 104. Declaration of public nuisance.**

115
116 Every dwelling, building, or structure within the city which (i) is constructed or maintained in
117 violation of applicable codes in force within the city; (ii) is unfit for human habitation or
118 commercial, industrial, or business use or occupancy due to inadequate provisions for ventilation,
119 light, air, sanitation, or open spaces; (iii) poses an imminent harm to life or other property due to
120 fire, flood, hurricane, tornado, earthquake, storm or other natural catastrophe; (iv) is vacant and
121 used in the commission of drug crimes; (v) is occupied and used repeatedly for the commission of
122 illegal activities, including facilitating organized crime or criminal enterprises, after written notice
123 to the owner of such activities conducted therein; (vi) is abandoned; or (vii) otherwise constitutes
124 an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, is
125 hereby declared a public nuisance. Every private property within the city on which is being
126 regularly conducted any activity or land use in violation of applicable laws and ordinances,
127 including the zoning ordinance of this city, is hereby declared to be a public nuisance. Property
128 which may be deemed esthetically substandard or deteriorating shall not meet the definition of a
129 public nuisance unless the overall condition or use of the property results in impaired health, safety,
130 transmission of disease, infant mortality, or crime.

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Sec. 105. Powers of city manager or his designee.

(a) In carrying out his duties pursuant to this article, the city manager or his designee to whom his authority is assigned shall, in addition to those powers otherwise conferred upon or delegated to him by the Charter and other ordinances of the city, be empowered to:

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

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

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

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

(b) In addition to the procedures set forth in this article, the city 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 court prior to issuing a complaint in rem as provided in this article. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by other summary proceedings.

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Sec. 106. Complaint in rem in municipal court; procedure; lien; appeal.

- (a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may make an investigation or inspection of the specific dwelling, building, structure, or property and make a written report of his findings. Such officer shall be guided in his investigation by documenting conditions, which include but are not limited to:
 - (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair by failure to conform to applicable codes and ordinances;
 - (5) Structural defects which render the structure unsafe for human habitation or occupancy;
 - (6) Uncleanliness; or
 - (7) The presence of graffiti which is visible from adjoining public or private property.

- (b) If the public officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the

200 public health or safety as a result of unsanitary or unsafe conditions, the public officer shall
201 file a complaint in rem in the municipal court of the city against the lot, tract, or parcel of
202 real property on which such dwelling, building, or structure is situated or where such public
203 health hazard or general nuisance exists and shall cause summons and a copy of the
204 complaint to be served on the interested parties in such dwelling, building, or structure.
205 The complaint shall identify the subject real property by appropriate street address and
206 official tax map reference; identify the interested parties; state with particularity the factual
207 basis for the action; and contain a statement of the action sought by the public officer to
208 abate the alleged nuisance. The summons shall notify the interested parties that a hearing
209 will be held before the municipal court at a date and time certain and at a place within the
210 county or municipality where the property is located. Such hearing shall be held not less
211 than 15 days nor more than 45 days after the filing of said complaint in the proper court.
212 The interested parties shall have the right to file an answer to the complaint and to appear
213 in person or by attorney and offer testimony at the time and place fixed for hearing.

214

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

223

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

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232 (2) If the repair, alteration, or improvement of the said dwelling, building, or structure
233 in order to bring it into full compliance with applicable codes relevant to the cited
234 violations cannot be made at a reasonable cost in relation to the present value of the
235 dwelling, building, or structure, requiring the owner, within the time specified in
236 the order, to demolish and remove such dwelling, building, or structure and all
237 debris from the property.

238

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

254

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

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

271

272 (e) If the public officer has the structure demolished, reasonable effort shall be made to salvage
273 reusable materials for credit against the cost of demolition. The proceeds of any moneys
274 received from the sale of salvaged materials shall be used or applied against the cost of the
275 demolition and removal of the structure, and proper records shall be kept showing
276 application of sales proceeds. Any such sale of salvaged materials may be made without
277 the necessity of public advertisement and bid. The public officer and governing authority

278 are relieved of any and all liability resulting from or occasioned by the sale of any such
279 salvaged materials, including, without limitation, defects in such salvaged materials.

280
281 (f) The amount of the cost of demolition, including all court costs, appraisal fees,
282 administrative costs incurred by the tax commissioner, and all other costs necessarily
283 associated with the abatement action, including restoration to grade of the real property
284 after demolition, shall be a lien against the real property upon which such cost was incurred.

285
286 (g) The lien provided for in subsection (e) shall attach to the real property upon the filing of a
287 certified copy of the order requiring repair, closure, or demolition in the office of the clerk
288 of superior court in DeKalb County and shall relate back to the date of the filing of the lis
289 pendens notice required under subsection (a). The clerk of superior court shall record and
290 index such certified copy of the order in the deed records of the county and enter the lien
291 on the general execution docket. The lien shall be superior to all other liens on the property,
292 except liens for taxes to which the lien shall be inferior, and shall continue in force until
293 paid. After filing a certified copy of the order with the clerk of superior court, the public
294 officer shall, within 90 days of the completion of repairs, demolition or closure, forward a
295 copy of the order and a final statement of costs to the county tax commissioner.

296
297 (h) It shall be the duty of the county tax commissioner to collect the amount of the lien in
298 conjunction with the collection of ad valorem taxes on the property and to collect the
299 amount of the lien as if it were a real property ad valorem tax, using all methods available
300 for collecting real property ad valorem taxes, including specifically O.C.G.A. § 48-4-5;
301 provided, however, that the limitation of O.C.G.A § 48-4-78 which requires 12 months of
302 delinquency before commencing a tax foreclosure shall not apply; provided, further, that
303 redemption of property from the lien may be made in accordance with the provisions of
304 O.C.G.A. §§ 48-4-80 and 48-4-81. The tax commissioner may initiate enforcement of liens
305 imposed under this section at any time following receipt of the final determination of costs
306 from the public officer. The unpaid lien amount shall bear interest and penalties from and
307 after the date of final determination of costs in the same amount as applicable to interest
308 and penalties on unpaid real property ad valorem taxes.

309
310 (i) The tax commissioner shall remit the amount collected to the governing authority of the
311 municipality whose ordinance is being enforced. The tax commissioner may retain an
312 amount equal to the cost of administering collection of the lien. Any such amount collected
313 and retained for administration shall be deposited in the general fund of the county to pay
314 the cost of administering the lien.

315

316 (j) The governing authority may waive and release any such lien imposed on property upon
317 the owner of such property entering into a contract with the municipality agreeing to a
318 timetable for rehabilitation of the real property or the dwelling, building, or structure on
319 the property and demonstrating the financial means to accomplish such rehabilitation.

320

321 (k) Review of a court order requiring the repair, alteration, improvement, or demolition of a
322 dwelling, building, or structure shall be by direct appeal to the superior court under
323 O.C.G.A. § 5-3-29.

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325

326 **Sec. 107. Service of complaints or orders upon owners and parties in interest.**

327

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

329

330 (1) In all cases, a copy of the complaint and summons shall be conspicuously posted
331 on the subject dwelling, building, structure, or property within three business days
332 of filing of the complaint and at least 14 days prior to the date of the hearing.

333

334 (2) At least 14 days prior to the date of the hearing, the public officer shall mail copies
335 of the complaint and summons by certified mail or statutory overnight delivery,
336 return receipt requested, to all interested parties whose identities and addresses are
337 readily ascertainable. Copies of the complaint and summons shall also be mailed
338 by first-class mail to the property address to the attention of the occupants, if any;

339

340 (3) For interested parties whose mailing address is unknown, a notice stating the date,
341 time, and place of the hearing shall be published in the newspaper in which the
342 sheriff's advertisements appear in such county once a week for two consecutive
343 weeks prior to the hearing; and

344

345 (4) A notice of lis pendens shall be filed in the office of the clerk of superior court in
346 which the dwelling, building, structure, or property is located at the time of filing
347 the complaint in municipal court.

348

349 (b) The public officer shall cause an affidavit of service to be filed of record in the municipal
350 court prior to the hearing showing compliance with the service requirements of this section.
351 Such affidavit shall constitute a prima facie showing of minimum procedural due process
352 and shall constitute sufficient proof that service was perfected.

353
354 (c) Orders and other filings made subsequent to service of the initial complaint shall be served
355 in the manner provided in this section on every interested party who answers the complaint
356 or appears at the hearing. Any interested party who fails to answer or appear at the hearing
357 shall be deemed to have waived all further notice in the proceedings.

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359

360 **Sec. 108. Limitation of liability for code enforcement; no special duty created.**

361

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

377

378 **Sec. 109. General cleanliness of premises.**

379

380 The owner and occupant of property within the city shall each be independently responsible for
381 keeping the premises, including all buildings thereon and the full yard thereof, clean and free from
382 all garbage, refuse, filth, dirt, ashes, trash, rubbish and other offensive materials.

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385 **Sec. 110. Disorderly house.**

386

387 (a) Any person who keeps and maintains, either by himself or others, a common, ill-governed
388 and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or
389 other misbehavior, to the common disturbance of the neighborhood or orderly citizens,
390 shall be guilty of an offense against the city; provided, however, before any person is
391 charged under this subsection, written notice shall be given the owner of the property and
392 the person in possession thereof by the chief of police stating the general, customary and
393 common habits of the house, giving fair notice of this subsection and the conduct
394 proscribed thereby.

395

396 (b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble
397 or remain in their house, apartment or upon their property, after receiving oral notice from
398 a police officer that boisterous, noisy, drunken or carousing activities have caused
399 complaint and annoyance to the common disturbance of the neighborhood or orderly
400 citizens, shall be guilty of an offense against the city; provided, however, no person shall
401 be charged under this subsection unless the owner or person in possession of the premises
402 has been afforded an opportunity to disburse the assembly or offending person from the
403 premises. This subsection shall not preclude a police officer from arresting any individual
404 for criminal trespass where such individual knowingly and without authority remains on
405 private property after being notified by the owner or lawful occupant to depart.

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407 **Sec. 111. Violations; enforcement penalties.**

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409 Any person who willfully refuses to comply with the provisions of this article shall be cited to
410 appear before the municipal court and, upon conviction, shall be fined not less than \$100.00; each
411 day of continued violation, after citation, shall constitute a separate offense. In addition to the
412 foregoing fines, upon conviction, the director shall discontinue the public water supply service at
413 any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or
414 inter-connection, and service shall not be restored until such cross-connection, auxiliary, by-pass,
415 or inter-connection has been discontinued.

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421 **Chapter 2. Blighted Property Ordinance**

422

423 **Sec. 201. Short Title.**

424

425 This Chapter shall be known as the “Lithonia Blighted Property Ordinance.”

426

427 **Sec. 202. Purpose.**

428

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

433

434 In furtherance of its objective to eradicate conditions of slum and blight within the city, this board
435 of commissioners, in exercise of the powers granted to municipal corporations at Chapter 61,
436 Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those
437 areas of the city where conditions of slum and blight are found or are likely to spread.

438

439 In recognition of the need for enhanced governmental services and in order to encourage private
440 property owners to maintain their real property and the buildings, structures and improvement
441 thereon in good condition and repair, and as an incentive to encourage community redevelopment,
442 a community redevelopment tax incentive program is hereby established as authorized by Article
443 IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.

444 **Sec. 203. Definitions.**

445

446 (a) ‘Blighted property’, ‘blighted’, or ‘blight’ means any urbanized or developed property
447 which:

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

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451 (A) Uninhabitable, unsafe, or abandoned structure;

452

- 453 (B) Inadequate provisions for ventilation, light, air, or sanitation;
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- 455 (C) An imminent harm to life or other property caused by fire, flood, hurricane,
456 tornado, earthquake, storm, or other natural catastrophe respecting which
457 the governor has declared a state of emergency under the state law or has
458 certified the need for disaster assistance under federal law; provided,
459 however, this division shall not apply to property unless the relevant public
460 agency has given notice in writing to the property owner regarding specific
461 harm caused by the property and the owner has failed to take reasonable
462 measures to remedy the harm;
- 463
- 464 (D) A site identified by the federal Environmental Protection Agency as a
465 superfund site pursuant to 42 U.S.C. Section 9601, et seq., or having
466 environmental contamination to an extent that requires remedial
467 investigation or a feasibility study;
- 468
- 469 (E) Repeated illegal activity on the individual property of which the property
470 owner knew or should have known; or
- 471
- 472 (F) The maintenance of the property is below state, county, or municipal codes
473 for at least one year after written notice of the code violation to its owner;
474 and
- 475
- 476 (2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the
477 immediate proximity of the property.

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

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- 482 (b) 'Building inspector' means a certified inspector possessing the requisite qualifications to
483 determine minimal code compliance.
- 484
- 485 (c) 'Community redevelopment' means any activity, project, or service necessary or incidental
486 to achieving the redevelopment or revitalization of a redevelopment area or portion thereof

487 designated for redevelopment through an urban redevelopment plan or thorough local
488 ordinances relating to the repair, closing, and demolition of buildings and structures unfit
489 for human habitation.

490
491 (d) 'Governing authority' means the City Council of the City of Lithonia, a Georgia municipal
492 corporation.

493
494 (e) 'Millage' or 'millage rate' means the levy, in mills, which is established by the governing
495 authority for purposes of financing, in whole or in part, the levying jurisdiction's general
496 fund expenses for the fiscal year.

497
498 (f) 'Person' means such individual(s), partnership, corporations, business entities and
499 associations which return real property for ad valorem taxation or who are chargeable by
500 law for the taxes on the property.

501
502 (g) 'Public officer' means the city manager or such officer or employee of the city as
503 designated by the city manager to perform the duties and responsibilities hereafter set forth
504 in this article.

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507 **Sec. 204. Ad Valorem Tax Increase on Blighted Property**

508
509 (a) There is hereby levied on all real property within the city which has been officially
510 identified as maintained in a blighted condition an increased ad valorem tax by applying a
511 factor of seven (7.0) to the millage rate applied to the property, so that such property shall
512 be taxed at a higher millage rate generally applied in the municipality, or otherwise
513 provided by general law; provided, however, real property on which there is situated a
514 dwelling house which is being occupied as the primary residence of one or more persons
515 shall not be subject to official identification as maintained in a blighted condition and shall
516 not be subject to increased taxation.

517
518 (b) Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered
519 following official designation of a real property as blighted.

520

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

525

526

527 **Sec. 205. Identification of Blighted Property.**

528

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

531

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

534

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

538

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

545

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

554

555 (3) Following completion of the inspection report, the public officer shall make a
556 determination, in writing, that a property is maintained in a blighted condition, as
557 defined by this article, and is subject to increased taxation.

558
559 (4) The public officer shall cause a written notice of his determination that the real
560 property at issue is being maintained in a blighted condition to be served upon the
561 person(s) shown on the most recent tax digest of DeKalb County as responsible for
562 payment of ad valorem taxes assessed thereon; provided, however, where through
563 the existence of reasonable diligence it becomes known to the public officer that
564 real property has been sold or conveyed since publication of the most recent tax
565 digest, written notice shall be given to the person(s) known or reasonably believed
566 to then own the property or be chargeable with the payment of ad valorem taxes
567 thereon, at the best address available. Service in the manner set forth at O.C.G.A.
568 § 41-2-12 shall constitute sufficient notice to the property's owner or person
569 chargeable with the payment of ad valorem taxes for purpose of this section, except
570 that posting of the notice on the property will not be required.

571
572 (b) The written notice given to the person(s) chargeable with the payment of ad valorem taxes
573 shall notify such person of the public officer's determination the real property is being
574 maintained in a blighted condition and shall advise such person of the hours and location
575 at which the person may inspect and copy the public officer's determination and any
576 supporting documentation. Persons notified that real property of which the person(s) is
577 chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of
578 notice in which to request a hearing before the city's municipal court. Written request for
579 hearing shall be filed with the public officer and shall be date stamped upon receipt. Upon
580 receipt of a request for hearing, the public officer shall notify the municipal court and the
581 building inspector or person who performed the inspection and prepared the inspection
582 report.

583
584 (c) Within 30 days of the receipt of a request for hearing, the municipal court clerk shall set a
585 date, time and location for the hearing and shall give at least ten business days notice to the
586 person(s) requesting the hearing, the public officer and the building inspector or person
587 who performed the inspection and prepared the inspection report. Notice of scheduled
588 hearings shall be published as a legal advertisement in the Champion, or other designated
589 legal organ in DeKalb County, at least five days prior to the hearing. Hearings may be
590 continued by the municipal court judge upon request of any party, for good cause.

591
592 (d) At the hearing, the public officer shall have the burden of demonstrating by a
593 preponderance of the evidence that the subject property is maintained in a blighted

594 condition, as defined by this article. The municipal court judge shall cause a record of the
595 evidence submitted at the hearing to be maintained. Upon hearing from the public officer
596 and/or their witnesses and the person(s) requesting the hearing and/or their witnesses, the
597 judge of municipal court shall make a determination either affirming or reversing the
598 determination of the public officer. The determination shall be in writing and copies thereof
599 shall be served on the parties by certified mail or statutory overnight delivery. The
600 determination by the court shall be deemed final. A copy of such determination shall also
601 be served upon the Tax Commissioner of DeKalb County, who shall include the increased
602 tax on the next regular tax bill rendered on behalf of the city.

- 603
- 604 (e) Persons aggrieved by the determination of the court affirming the determination of the
605 public officer may petition the Superior Court of DeKalb County for a writ of certiorari
606 within 30 days of issuance of the court's written determination.

607

608

609 **Sec. 206. Remediation or Redevelopment.**

- 610
- 611 (a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on
612 real property which has been officially designated pursuant to this article as property
613 maintained in a blighted condition may petition the public officer to lift the designation,
614 upon proof of compliance with the following:

615

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

620

621 (2) Completion of work required under a court order entered in a proceeding brought
622 pursuant to the City Code of Lithonia, Georgia.

- 623
- 624 (b) Before action on a petition to lift the designation, the public officer shall cause the property
625 to be thoroughly inspected by a building inspector who, by written inspection report, shall
626 certify that all requisite work has been performed to applicable code in a workmanlike
627 manner, in accordance with the specifications of the plan of remedial action or
628 redevelopment, or applicable court order. Upon finding required work to be satisfactorily
629 performed, the public officer shall issue a written determination that the real property is no

630 longer maintained in a blighted condition. Copies of this determination shall be served
631 upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax
632 Commissioner of DeKalb County.

633

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

637

638 (1) The plan shall be consistent with the city's comprehensive plan and all laws and
639 ordinances governing the subject property, and shall conform to any urban
640 redevelopment plan adopted for the area within which the property lies;

641

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

646

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

650

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

653

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

655

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

659

660

661 **Sec. 207. Decrease of Tax Rate.**

662

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

675

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

679

680

681 **Sec. 208. Notice to Tax Commissioner.**

682

683 It shall be the duty of the public officer to notify the Tax Commissioner of DeKalb County in
684 writing as to designation or removal of designation of a specific property as maintained in a
685 blighted condition. Such notice shall identify the specific property by street address and tax map,
686 block and parcel number, as assigned by the DeKalb County Tax Assessor's Office. The public
687 officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties
688 subject to increased or reduced ad valorem taxation under this article.

689

690 **Chapter 3. Vacant and foreclosed property**

691

692 **Sec. 301. Short Title.**

693

694 This Article shall be known as the "Lithonia Vacant and Foreclosed Property Ordinance."

695

696

697 **Sec. 302. Findings and Intent.**

698

699 This ordinance is adopted to address the interest of public safety.

700

701 (a) The governing authority finds that there is a need to establish a foreclosure and vacant real
702 property as a mechanism to protect property values in neighborhoods for all property
703 owners.

704

705 (b) Due to the lack of adequate maintenance and security of properties that are foreclosed or
706 where ownership has been transferred after foreclosure, the property values and quality of
707 life of neighboring properties are negatively impacted.

708

709 (c) Improperly maintained and secured foreclosed properties can become a hazard to the health
710 and safety of persons who may come on or near the property and can adversely affect the
711 aesthetic and economic attributes of communities. Difficulties also often arise in locating
712 the person responsible for the condition of foreclosed real property. The governing
713 authority finds that there is a substantial need directly related to the public health, safety
714 and welfare to comprehensively address these concerns through the adoption of the
715 provisions in this article.

716

717 (d) This foreclosure and vacant real property registry will require owners and agents to provide
718 the city with official information for contacting a party responsible for bringing foreclosed
719 and vacant real property into compliance with applicable provisions of municipal code of
720 Lithonia, Georgia.

721

722

723 **Sec. 303. Definitions.**

724

725 (a) 'Agent' means an individual with a place of business in this state in which he or she is
726 authorized to accept inquiries, notices, and service of process on behalf of a vacant or
727 foreclosed real property owner. The definition of 'agent' shall have the same meaning as
728 set forth in the Official Code of Georgia Annotated, Section 44-14-14 should that definition
729 differ from the definition in this Article.

730

731 (b) 'Foreclosed real property' means improved or unimproved real property for which a land
732 disturbance permit has been issued by a county or municipal corporation and is held
733 pursuant to a judicial or nonjudicial foreclosure of a mortgage, deed of trust, security deed,
734 or other security instrument securing a debt or obligation owned to a creditor or a deed in
735 lieu of foreclosure in full or partial satisfaction of a debt or obligation owed to a creditor
736 or shall have the same meaning as set forth in the Official Code of Georgia Annotated,
737 Section 44-14-14, should that definition differ.

738
739 (c) 'Street address' means the street or route address. Such term shall not mean or include a
740 post office box. The definition of 'street address' shall have the same meaning as set forth
741 in the Official Code of Georgia Annotated, Section 44-14-14 should that definition differ
742 from the definition in this Article.

743
744 (d) 'Vacant Real Property' means real property that:
745
746 (1) Is intended for habitation, has not been lawfully inhabited for at least 60 days, and
747 has no evidence of utility usage within the past 60 days; or

748
749 (2) Is partially constructed or incomplete, without a valid building permit.

750
751 Such term shall not include a building or structure containing multiple units with common
752 ownership that has at least one unit occupied with evidence of utility usage. The definition
753 of 'vacant real property' shall have the same meaning as set forth in the Official Code of
754 Georgia Annotated, Section 44-14-14 should that definition differ from the definition in
755 this Article.

756
757

758 **Sec. 304. Registration of Vacant or Foreclosed Property.**

759
760 (a) Owner or agents of foreclosed real property or vacant real property, including foreclosed
761 real property and vacant real property which is also residential rental property, are required
762 to register such property with the City Clerk of Lithonia or his/her designee within thirty
763 (30) days of such property becoming foreclosed or vacant real property by following the
764 provisions of this section unless otherwise exempted by this Article or state law.

765
766 (b) Any such owner or agent of foreclosed real property or vacant real property located within
767 the jurisdiction of the city is required to file with the City Clerk of Lithonia or his/her
768 designee a registration form in paper or electronic format. If the Georgia Department of
769 Community Affairs has promulgated a standard vacant or foreclosed real property registry
770 form the owner or agent shall use such form and the city shall only require use of such
771 form. If the Georgia Department of Community Affairs has not promulgated such form the
772 city may create its own form, but such form shall only require submission of the following
773 information:

774
775 (1) The real property owner's name, street address, mailing address, phone number,
776 facsimile number, and e-mail address;

777
778 (2) The agent's name, street address, mailing address, phone number, facsimile
779 number, and e-mail address;

780
781 (3) The real property's street address and tax parcel number;

782
783 (4) The transfer date of the instrument conveying the real property to the owner; and

784
785 (5) At such time as it becomes available, recording information, including deed book
786 and page numbers, of the instrument conveying the real property to the owner.

787
788 (c) Registration is required for all vacant or foreclosed real property unless otherwise
789 exempted, pursuant to this Article, but is not required for vacant or foreclosed real property
790 within 90 days of such real property's transfer:

791
792 (1) Pursuant to a deed under power of sale or deed in lieu of foreclosure; or

793
794 (2) To the first subsequent transferee after the vacant real property has been acquired
795 by foreclosure under power of sale pursuant to the Official Code of Georgia
796 Annotated, Section 44-14-160, or acquired pursuant to a deed in lieu of foreclosure.

797

798 (d) Any owner or agent required to register any vacant or foreclosed real property pursuant to
799 this Article or to Georgia law shall also be required to update the information specified in
800 subsection (a) of this section within 30 days after any change in such required information
801 regardless of whether the information provided to the registry was in the deed under power
802 of sale or deed in lieu of foreclosure.

803

804

805 **Sec. 305. Foreclosed and Vacant Real Property Exemptions.**

806

807 (a) Registration or payment of any administrative fees of foreclosed real property pursuant to
808 this Article and Georgia law is not required of transferees as described in subsection (b) of
809 this section.

810

811 (b) Any transferee who acquires any real property by foreclosure under power of sale pursuant
812 to the Official Code of Georgia Annotated, Section 44-14-160 or acquires any real property
813 pursuant to a deed in lieu of foreclosure and:

814

815 (1) The deed under power of sale or deed in lieu of foreclosure contains the information
816 specified in subsection (a) of this section;

817

818 (2) The deed is filed with the clerk of the superior court within 60 days of the transfer;
819 and

820

821 (3) Proof of the following is provided to the office or the officer in charge of the city
822 foreclosed real property registry:

823

824 (A) A filing date stamp or receipt showing payment of the applicable filing fees;
825 and

826

827 (B) The entire deed under power of sale or entire deed in lieu of foreclosure.

828

829 (c) State law, in O.C.G.A. § 44-14-14(l) allows the city to provide for further “exemptions from
830 such registration” as those required by state law. Any such owner or agent that chooses to

831 be exempt must submit a reason for being exempt that will be reviewed by the City
832 Attorney to see if it meets the required constitutional requirement for exemption.

833

834 (d) Any owner or agent required to register any vacant or foreclosed real property pursuant to
835 this Article or to Georgia law shall also be required to update the information specified in
836 subsection (a) of this section within 30 days after any change in such required information
837 regardless of whether the information provided to the registry was in the deed under power
838 of sale or deed in lieu of foreclosure.

839

840

841 **Sec. 306. Removal from Registry.**

842

843 (a) Any owner or agent of a vacant or foreclosed real property may apply to the city to remove
844 a vacant or foreclosed real property from the city registry at such time as the real property
845 no longer constitutes a vacant or foreclosed real property.

846

847 (b) Any application for removal allowed under subsection (a) of this section shall be granted
848 or denied by the City Clerk of Lithonia or his/her designee within 30 days, and if no such
849 determination is made within 30 days then the application for removal from the registry
850 shall be deemed granted.

851

852

853 **Sec. 307. Administrative Fees.**

854

855 Any owner or agent of a vacant or foreclosed real property which is required to be registered with
856 the city under this Article shall be required to make a payment for administrative fees that
857 reasonably approximate the cost to the city of the establishment, maintenance, operation, and
858 administration of the registry. Such fees shall not exceed _____, *the city may choose to impose*
859 *such fees via resolution and state "Such fee amount shall be set via resolution of the city*
860 *council."*_____.

861

862

863 **Sec. 308. Appeal Procedures.**

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(a) Any owner or agent aggrieved of any determination or decision of the City Clerk of Lithonia or his/her designee or the city in the administration of this Article may appeal to the municipal court of the city. All appeals hereunder must be taken within thirty (30) days of the decision in question by filing with the City Clerk of Lithonia or his/her designee notice of appeal specifying the grounds thereof.

(b) The City Clerk of Lithonia or his/her designee shall forthwith transmit to the notice of appeal and all the papers constituting the record upon which the action appealed was taken to the municipal court clerk who shall schedule an appeal hearing within sixty (60) days following the date the appealing party submits its completed written appeal with subsection (a) above.

(c) The municipal court judge may call for further information to be provided within the next thirty-five (35) days following the hearing, and may continue the hearing for the purpose of receiving such information or for such other proceedings and reasons as the municipal court judge deems appropriate.

(d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Clerk of Lithonia or his/her designee certifies to the municipal court, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by order of the municipal court judge on notice to the City Clerk of Lithonia or his/her designee, and on due cause shown.

(e) The municipal court judge may, in conformity with the provisions of this Article, reverse or affirm, in whole or in part, or modify the decision, requirement, or determination of the City Clerk of Lithonia or his/her designee, appealed from by the owner or agent and may make such decision, requirement, or determination, as may be appropriate under the circumstances.

Sec. 308 Administration.

(a) The foreclosure and vacant real property registry is subject to the Open Records Act of the State of Georgia and the city may make such registry information available online.

900
901 (b) Registration information shall be deemed prima facie proof of the statements contained
902 therein in any court proceeding or administrative enforcement proceeding in connection
903 with the enforcement of this chapter.

904
905

906 **Sec. 309 Nuisances.**

907

908 Nothing in this Article shall be construed to impair, limit, or preempt in any way the power of the
909 city to enforce any applicable codes, as defined in state law, or to define or declare nuisances and
910 to cause their removal or abatement by summary proceedings or otherwise.

911
912

913 **Sec. 310. Penalties.**

914

915 Any owner or agent required to register a vacant or foreclosed real property under this Article who
916 fails to register or fails to update the information specified in subsection (a), of Section 304, of this
917 Chapter, Registration of Vacant or Foreclosed Property, may be fined up to *(The maximum*
918 *allowed under state law is \$1,000.00 per occurrence)* per occurrence.

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920

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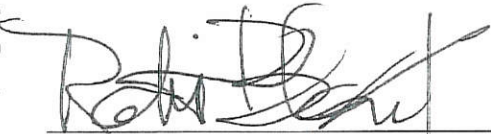
922 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby
923 incorporated by reference as if fully set out herein.

924 **Section 3.** (a) It is hereby declared to be the intent of the Mayor and Council that all
925 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
926 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

927 (b) It is hereby declared to be the intent of the Mayor and Council that, to the greatest extent
928 allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance

958 ATTEST:

959
960
961
962




963 **Robinette Blount**, City Clerk

964

965

966 APPROVED AS TO FORM BY:

967
968
969
970



971 City Attorney



929 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It
930 is hereby further declared to be the intent of the Mayor and Council that, to the greatest extent
931 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
932 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

933 (c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance
934 shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable
935 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of
936 the Mayor and Council that such invalidity, unconstitutionality, or unenforceability shall, to the
937 greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable
938 any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinance and that,
939 to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
940 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
941 effect.

942 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
943 repealed.

944 **Section 5.** The effective date of this Ordinance shall be the date of adoption unless
945 otherwise specified herein.

946 SO ORDAINED this 6TH day of JULY, 2021.

950 CITY OF LITHONIA, GEORGIA

951
952
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955 
956 Shameka Reynolds, Mayor
957