

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF NICHOLSON

PUBLIC NUISANCES

WHEREAS, the City Council has the power to adopt and provide for the execution for ordinances which it deems necessary, expedient or helpful for the peace, good order, protection of life and property, health, welfare, comfort, convenience, prosperity or well-being of the inhabitants of the City of Nicholson and may enforce such ordinances by imposing penalties for the violation thereof as provided by Section 2.16(b) of the Charter; and

WHEREAS, public nuisances are detrimental to the peace, health, welfare, comfort and convenience of the inhabitants of the City of Nicholson; and

WHEREAS, the City Council finds it necessary to adopt, provide for the execution of and enforce ordinances to abate public nuisances;

NOW THEREFORE, THE COUNCIL OF THE CITY OF NICHOLSON HEREBY ORDAINS as follows:

I. Findings

It is found and declared that within the municipal limits of the City of Nicholson 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 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; or general nuisances which constitute a hazard to the health, safety, and welfare of the people of this City; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is found and declared that in the City limits where there is in existence a condition or use 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 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.

II. Nuisances Generally.

- A. **Structures.** It is the duty of the owner of every dwelling, building, structure, or property within the City limits of Nicholson to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City limits, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to

construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

- B. **Growth limitations.** It is unlawful for any person, corporation or other entity owning, claiming or occupying or having supervision or control with any real property, occupied or unoccupied within the city, to permit weeds, grass, brush, or any objectionable or unsightly matter to grow to a greater height than that of twelve inches upon such real property within one hundred fifty feet of any property line which abuts street, right-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.
- C. **Litter and Trash.** Every owner or occupant or lessee of a house or building used for residence, business or commercial purpose shall maintain litter collection and storage areas in a clean condition and ensure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this section.

III. **Abatement of Public Nuisances**

- A. **Appointment of Public Officer.** The Mayor of Nicholson or his designee is hereby appointed and designated as the public officer authorized to exercise the powers prescribed in this ordinance.
- B. **Complaint procedures.** Whenever a request is filed with the public officer by a public authority or by at least five residents of the City of Nicholson charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before the municipal court of Nicholson, at a date and

time certain and at a place within the county or municipality where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

C. **Hearing Procedures.** If after such notice and hearing, the municipal court determines that the dwelling, building, structure or property in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use or 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 judge of the municipal court may order the nuisance be abated. Such order may include any and/or all of the following provisions:

1. If the repair, alteration, or improvement of the said dwelling, building, structure or property 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, structure, or property so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes;
2. If the repair, alteration, or improvement of the said dwelling, building, structure, or property in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, structure, or property and all debris from the property.

For purposes of this Code section, the court shall make its determination of "reasonable cost in relation to the present value of the dwelling, building, or structure" without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction;

D. **Persons Authorized to Abate Nuisance.** If the owner fails to comply with an order to repair or demolish the dwelling, building, structure, or property the

public officer may cause such dwelling, building, structure, or property to be repaired, altered, or improved or to be vacated and closed or demolished.

- E. **Cost of repair.** Where any person, ordered to do any work for the purpose of abating a nuisance, has failed or refused to do such work, and the work has been done by or at the direction of the City of Nicholson, the amount of the cost of demolition or repair, including all court costs, appraisal fees, administrative costs incurred by the City, shall be a lien against the real property upon which such cost was incurred. If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. 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 material.

SO ORDAINED this ____ day of _____, 2012.

Honorable Ronnie Maxwell, Mayor

Howard Wilbanks, Council Member

C. Faye Seagraves, Council Member

Jan Webster, Council Member

Bobby Crawford , Council Member

ATTEST:

Wendy Carter
City Clerk