

**AN ORDINANCE ESTABLISHING AND CREATING A NUISANCE ABATEMENT
CODE AND FOR OTHER PURPOSES**

Whereas, the City of Sky Valley recognizes that there exists in the City of Sky Valley dwellings, buildings, or structures:

- (1) That 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;
- (2) That lack adequate ventilation, light, or sanitary facilities;
- (3) 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 the city;
- (4) That are vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed.

Whereas, the Charter of the City of Sky Valley specifically provides in Section 1.12 for building regulation, fire regulation, removal of public hazards, regulation of health, safety and welfare and for nuisance abatement and other powers.

Therefore, it is hereby enacted by the Mayor and Council of the City of Sky Valley the following:

- I. The Code of the City of Sky Valley, Georgia is hereby amended by a new article to be numbered Article _____, which article is attached and incorporated as Exhibit "A."
- II. ~~SHOULD ANY SECTION OR PROVISION OF THIS ORDINANCE BE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL OR INVALID SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OF THE ORDINANCE AS A WHOLE OR ANY PART THEREOF OTHER THAN THE PART SO DECLARED TO BE UNCONSTITUTIONAL OR INVALID. ALL RESOLUTIONS AND ORDINANCES AND PARTS OF RESOLUTIONS AND ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED.~~
- III. This ordinance will become effective upon adoption by the Mayor and Council as provided by the Charter of the City of Sky Valley.

Approved and adopted this _____ day of _____, 2012.

Mayor Jim Martindale
City of Sky Valley

ATTEST:

City Clerk

DRAFT

EXHIBIT "A"

ARTICLE _____
NUISANCE ABATEMENT

Sec. _____. - Authority, scope and applicability.

(a) This chapter is enacted pursuant to the provisions of Title 41, Chapter 2, Sections 7 through 17, as amended, of the Official Code of Georgia Annotated (O.C.G.A. § 41-2-7 specifies the scope and purpose of this chapter. All powers and authorities granted to public officers and public authorities by the statute are hereby incorporated by reference so as to be assumed, delegated and granted pursuant to this chapter. The Sky Valley Mayor and Council specifically finds that conditions of the character described in O.C.G.A. § 41-2-7 exist within the City of Sky Valley due to dwellings, buildings, structures or properties 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 features; or where other conditions exist rendering such dwellings, buildings, structures or properties unsafe or unsanitary or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the City of Sky Valley. Such dwellings, buildings, structures or properties are declared to be a public nuisance. Power is conferred upon the City of Sky Valley to exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, structures or properties as provided in this chapter.

(b) All the provisions of this chapter may also 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. A finding by any governmental health department, health officer, or City of Sky Valley building inspector or code enforcement officer that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this chapter.

(c) The provisions of this chapter shall apply to both residential and nonresidential property within the City of Sky Valley whether being occupied or not and whether being developed or not.

Sec. _____. - Definitions.

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

(1) "Applicable codes" means (A) any optional housing or abatement standard provided, 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 Chapter 2 of Title 25 of the Official Code of Georgia Annotated (O.C.G.A.); and (C) any building codes adopted by local ordinance, or the minimum standard codes provided in Chapter 2 of Title 8 of the Official Code of Georgia Annotated

(O.C.G.A.), 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.

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

(3) "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 chapter, 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.

(4) "Governing authority" means the Mayor and Council of Sky Valley, Georgia.

(5) "Interested party" means:

a. Owner;

b. Those parties having an interest in the property as revealed by a certification of title to the property conducted in accordance with the title standards of the State Bar of Georgia;

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

d. Any other party having an interest in the property whose identity and address are reasonably ascertainable from the records of the petitioner or records maintained in the Rabun County Courthouse or by the clerk of the court. "Interested party" shall not include the holder of the benefit or burden of any easement or right of way whose interest is properly recorded which interest shall remain unaffected; and

e. Persons in possession of said property and premises.

(6) "Municipal court" means the municipal court of the City of Sky Valley.

(7) "Owner" means the holder of the title in fee simple and every mortgagee of record.

(8) "Public authority" means any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the City of Sky Valley, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the corporate limits of the City of Sky Valley, Georgia.

(9) "Public officer" means the officer or officers who are authorized by O.C.G.A. §§ 41-2-7 through 41-2-17 and by this chapter to exercise the powers prescribed by this chapter or any agent of such officer or officers. For the purposes of this chapter the city manager, or

designees of the city manager to include but not limited to the police chief, building inspector or code enforcement officer, may exercise the responsibilities prescribed by this chapter and may be the "public officer" defined in O.C.G.A. § 41-2-8(10). The code enforcement officer, except as otherwise directed by the city manager, shall be the employee to exercise the duties presented in the ordinance for the public officer.

(10) "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.

(11) "Resident" means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose."

(12) "Undesirable vegetation" means plants, which due to natural growth characteristics, constitute a negative effect on public safety, public health or public welfare.

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

Sec. ____ . - Unsafe dwellings, buildings, structures, or properties.

(a) *Duty of the owner of dwellings, buildings, structures or properties.* It is the duty of the owner of every dwelling, building, structure, or property within the city limits of the City of Sky Valley, Georgia to construct and to maintain such dwelling, building, structure or property in conformance with applicable codes in force in the jurisdiction, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances.

(b) *Standards for determining unfitness for habitation of unsafe dwellings, buildings or structures.* The public officer may determine, under existing ordinances, that a dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building or structure; of the occupants of neighborhood dwellings, buildings or structures; or of other residents of the City of Sky Valley. Such building, dwelling, or structure is illegal and shall be abated by repair, demolition, or qualify for a secured building status in accordance with this chapter. Such conditions may include the following without limiting the generality of the foregoing:

(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 a city, county or state 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.

(c) *Standards for determining unfitness for habitation dwellings, buildings or structure being used in connection with drug crimes.* The public officer may determine, under existing ordinances, that a dwelling, building or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or upon report of a law enforcement agency and evidence of drug crimes being committed.

(d) *Property endangering the public health or safety.* 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 is illegal and in violation of this chapter. A finding by any governmental health department, health officer, or City of Sky Valley building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this chapter.

Sec. ____ . - Procedures and requirements to secure structures for up to three years.

The following procedures and requirements must be met in order to secure structures pending repairs.

(1) It shall be unlawful for a building owner to secure or cause to be secured a building

without first obtaining a secured structure permit (which may be or include other written authorization) from the public officer. The owner must apply for and be approved for a secured structure permit and pay any required fees in the amount established by the City of Sky Valley; and the public officer and/or building official shall then inspect such structure.

- (2) To qualify for secured status, the building must be structurally sound as determined by the public officer (walls and roof); otherwise, the secured structure permit will be denied.
- (3) The repairs needed to bring the structure into compliance with the Property Maintenance Code must not represent a cost that exceeds one-half of the fair market value of the structure as determined by the current ad valorem tax valuation or by an appraisal by a Georgia licensed appraiser. The property owner must provide, along with the application for a secured structure permit, a cost estimate for repairs and a valuation appraisal of the structure to the public officer for review and approval.
- (4) The property owner must provide, along with the application for a secured structure permit, a schedule of repairs subject to the review and approval of the public officer.
- (5) If the building is structurally sound, nonstructural interior portions (electrical wiring, plumbing, etc.) need not comply with appropriate codes while in secured status.
- (6) Building or structure must remain vacant while in secured status.
- (7) The Secured Structure Permit must be posted on the front of the building in a clearly visible location while the structure remains in secured status.
- (8) All utilities must remain turned off while in secured status unless otherwise approved by the public officer.
- (9) Building must be secured, windows and doors covered and secured.
- (10) Reserved.
- (11) The public officer shall notify the police chief and fire department of buildings that have been approved for secured status by the issuance of a secured structure permit and also shall provide notification when the secured status permit has expired or has otherwise been revoked.
- (12) It shall be unlawful for any person to enter or be inside a secured building or structure, except for the owner or duly authorized agent. Any person violating any provision of this paragraph shall, upon conviction thereof, be punished as provided in of the Code of Ordinances of the City of Sky Valley.
- (13) All secured structures must be maintained in a manner which minimizes the appearance of vacancy, including the prompt removal of graffiti.
- (14) All secured structures shall be maintained in a manner which does not create an unreasonable risk of fire, including the removal of weeds and the proper maintenance of grass areas which may constitute a fire hazard. No secured structure or portion thereof may be used for the storage of flammable liquids or other materials which would constitute a

safety or fire hazard.

(15) All secured structures including all adjoining yard areas shall be maintained free of debris, combustible materials, litter, and garbage.

(16) All exterior surfaces shall be applied with sufficient paint, stucco, or other finishes, in the same color or similar color as the adjoining areas, to weatherproof the vacant structure and to create a sufficient appearance of repair to deter unauthorized occupation.

(17) It shall be unlawful for any person to remove securing material on a secured building or structure. Any person violating any provision of this paragraph shall, upon conviction thereof, be punished as provided in the Code of Ordinances of the City of Sky Valley.

(18) The secured structure permit is valid for a period of 12 months from the issue date. The owner may make application for a secured structure permit for an additional 12 months. The owner must provide the documentation listed in (3) and (4) above along with the application and fee. The application for renewal shall be made no later than 30 days prior to the expiration of the current secured structure permit. Renewal of the permit is subject to the approval by the public officer and upon denial of the application to renew, the property will be subject to immediate nuisance abatement action. The secured structure permit may be renewed twice for a total of 36 months subject to the approval of the public officer.

(19) Periodic inspections of the structure and property will be performed by a code enforcement officer and/or building official. A report detailing the inspector's findings shall be included in the case file. If compliance with all of the requirements of this chapter is not present at the time of the inspection, enforcement action will be taken. In addition, the secured structure permit may be revoked by the public officer and nuisance abatement action initiated.

(20) It shall be unlawful for the holder of the secured building/structure permit during the permit year to violate any of the provisions of paragraphs (1) through (19) above. Any person violating any provision of these paragraphs shall, upon conviction thereof, be punished as provided in the Code of Ordinances of the City of Sky Valley or as otherwise provided by law.

Sec. _____. - Procedures and requirements temporarily to secure structures for up to sixty days pending compliance by demolition or repair.

The following procedures and requirements must be met in order temporarily to secure structures or temporarily to restrict access to a property prior to demolition of a structure or obtaining a building permit for the reconstruction of the structure:

(1) The public officer or the owner must have determined that the structure represents a hazard to life safety to the public and that such risk cannot be eliminated by affordable repairs as defined in Sec. ____ above.

(2) It shall be unlawful for a building owner to secure or cause to be secured such a building without first obtaining a Temporary Secured Structure Permit from the public

officer.

(3) A Temporary Secured Structure Permit may be issued by the public officer for a maximum time period of 60 days prior to the repair or demolition of a structure which has been identified by the public officer as a nuisance. This temporary, short-term permit is for the purpose of restricting access to a structure or site that may pose an immediate hazard to life safety.

(4) The owner must obtain a Temporary Secured Structure Permit from the public officer for any structure that has been identified as a nuisance by the public officer so that the structure will remain secure until a building permit or demolition permit is issued and work has commenced on the repairs or demolition. Along with an application for a secured structure permit pending demolition or repair, the owner must provide to the public officer a schedule for repair or demolition and payment of the required fees in the amount established by the City of Sky Valley.

(5) The building must be secured, windows and doors covered and secured. If the condition of the building prevents securing of the windows and doors, the site must be fenced in order to deter unauthorized entry to the property.

(6) All secured structures including all adjoining yard areas shall be maintained free of debris, combustible materials, litter, and garbage.

(7) The Temporary Secured Structure Permit must be posted on the front of the building in a clearly visible location while the structure remains in secured status.

(8) It shall be unlawful for the holder of a Temporary Secured Structure Permit issued by the public officer, pending compliance by demolition, to violate any of the provisions in paragraphs (1) through (7) in this section. Any person violating these provisions shall, upon conviction thereof, be punished as provided in the Code of Ordinances of the City of Sky Valley.

Sec. _____ - Reoccupying a secured building or structure.

Before a building or structure can be reoccupied:

(1) The building or structure must be fully returned to compliance with building/fire codes;

(2) The building or structure must be reinspected by the public officer and/or building official;

(3) Approval of required plans, if applicable; historic preservation, if applicable; request and purchase of all required building permits, subtrade permits, etc., as may be required, for compliance with construction codes.

(4) No utilities shall be turned on until full compliance with construction codes (temporary service is permitted if necessary for construction work to bring building back in to compliance with construction codes).

Sec. _____. - Inspection, complaint, hearing and order.

(a) Whenever a request is filed with the building inspector by any public authority or by at least five residents of the City of Sky Valley or by the director of building inspections on his own information 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.

(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 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, structure or property. 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 of Sky Valley 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 municipal 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) If, after such notice and hearing, the 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 and not in compliance with applicable codes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the interested parties that have answered the complaint or appeared at the hearing an order:

(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, structure, or property 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; or

(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, structure, or property requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and/or 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, structure or property 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 factors 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 of the Official Code of Georgia Annotated, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure or property 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.

Sec. _____. - Undesirable vegetation.

It shall be unlawful for the owner and/or occupant of any occupied lot of land in the City of Sky Valley, or for any agent or representative of any such occupant or owner, to permit or maintain on such lot any growth of undesirable vegetation. The complaint and inspection of undesirable vegetation shall be as set forth in section _____.

Sec. _____. - Failure to comply with order to repair or to demolish.

(a) 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, or structure to be repaired, altered, or improved or to be vacated and closed or demolished. Such abatement action shall commence within 270 days after the expiration of time specified in the order for abatement by the owner. Any time during which such action is prohibited by a court order issued pursuant to O.C.G.A. § 41-2-13 or any other equitable relief granted by a court of competent jurisdiction shall not be counted toward the 270 days in which such abatement action must commence. 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 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.'

(b) In addition, the placard shall bear the date posted, street address and number of the building involved and the signature of the director of the building inspection department. It shall thereafter be unlawful for any person to mutilate or remove such placard or for such building to be occupied until the required corrective action is taken.

Sec. _____. - Demolition.

No person shall begin demolition until a permit for demolition has been obtained and all utilities have been cut off and capped at the street. 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; 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 director of the building inspection department.

Sec. _____. - Lien on property.

(a) 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.

(b) The amount of the costs of repair or demolition, including all court costs, appraisal fees, administrative costs incurred by the City of Sky Valley, and all other costs necessarily associated with the abatement action, including but not limited to restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(c) The lien provided for in paragraph (b) above shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court in the county where the real property is located and shall relate back to the date of the filing of the lis pendens notice required under this chapter. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county 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.

(d) 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 chapter shall transmit to the city clerk of Sky Valley 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 city clerk of Sky Valley to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48 of the Official Code of Georgia Annotated; provided, however, that the limitation of Code Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. The city clerk of Sky Valley shall collect and enforce liens imposed pursuant to this chapter in accordance with O.C.G.A. § 48-5-359.1.

(e) Enforcement of liens pursuant to this section may be initiated at any time following receipt by the city clerk of Sky Valley of the final determination of costs in accordance with this chapter. 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 chapter.

(f) The redemption amount in any enforcement proceeding pursuant to this section shall be the

full amount of the costs as finally determined in accordance with this section together with interest, penalties, and costs incurred by the governing authority of Sky Valley 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.

(g) The governing authority of the City of Sky Valley may waive and release any such lien imposed on property upon the owner of such property entering into a contract by 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.

(h) Where the abatement action does not commence in superior court, review of the court order requiring the repair, alteration, improvement, or demolition of a building, dwelling or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

(i) In addition to the procedures and remedies in this chapter, the public officer may issue citations for violations of state minimum codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard and 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 chapter.

(j) Nothing in this chapter shall impair or limit in any way the power of the City of Sky Valley to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Sec. ____ . - Service of complaints, notices, orders and other filings.

(a) Complaints issued by a public officer pursuant to this chapter shall be served in the following manner: At least 14 days prior to the date of the hearing, the public officer shall mail or personally serve copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identity and address are reasonably ascertainable. Copies of the complaint shall also be mailed by first-class mail to the property address to the attention of the occupants of the property, if any, and shall be posted on the property within three business days of filing the complaint and at least 14 days prior to the date of the hearing.

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

(c) A notice of lis pendens shall be filed in the office of the clerk of superior court in the county in which the dwelling, building, or structure is located at the time of filing the complaint in the appropriate court. Such notice shall have the same force and effect as other lis pendens notices provided by law.

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

Sec. _____. - Nuisance conditions on property.

Without limiting the generality of the provisions of section _____, conditions constituting an endangerment to the health or safety of persons residing or working in the vicinity may include but are not limited to the following:

- (1) The generation of smoke or fumes in sufficient amounts to cause odor or annoyance to the inhabitants of the City of Sky Valley.
- (2) Maintaining a dangerous or diseased animal or fowl.
- (3) Stagnant water on premises.
- (4) An accumulation of weeds, abandoned or inoperable vehicles, trash, junk, filth, or other unsanitary and unsafe conditions that create a public health hazard or a general nuisance to those persons residing in the vicinity.
- (5) Any other condition constituting a nuisance under state law.

Sec. _____. - Eminent domain.

Nothing in this 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 chapter shall not constitute the exercise of the power of eminent domain by the City of Sky Valley.

Sec. _____. - Right to enter and inspect.

The public officer, or designee, or any person authorized to enforce this chapter, and any sworn officer of the 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. _____. - Powers of public officer.

The public officer is hereby authorized to exercise the following powers in addition to the other powers granted and set forth in this chapter:

- (1) To investigate the dwelling conditions in the City of Sky Valley in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
- (2) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (3) To enter upon premises for the purposes of making examinations; provided, however, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

Sec. _____. - 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. _____. - Injunctions.

Any person affected by an order issued by the public officer may petition to the superior court of Rabun County for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that such person shall present such petition to the court within 15 days of the posting and service of the order of the public officer. De novo hearings shall be heard by the superior court on petitions within 20 days or as soon thereafter as can be reasonably scheduled. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction pursuant to O.C.G.A. § 41-2-13.

DRAFT