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AN ORDINANCE NO. BR2019-08

1 AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR
2 THE CITY OF BLUE RIDGE RELATING TO DERELICT AND
3 BLIGHTED PROPERTY; TO PROVIDE FOR DEFINITIONS; TO
4 PROVIDE FOR A PROCEDURES FOR A DECLARATION OF A
5 PUBLIC NUISANCE; TO PROVIDE FOR A COMPLAINT AND
6 APPEAL PROCESS; TO PROVIDE POWERS OF CITY OFFICERS;
7 TO PROVIDE FOR SERVICE OF PROCESS; TO PROVIDE A
8 LIMITATION OF LIABILITY; TO PROVIDE FOR A LEVY OF
9 INCREASE ON AD VALOREM TAXES FOR BLIGHTED
10 PROPERTY; TO PROVIDE FOR IDENTIFICATION OF
11 BLIGHTED PROPERTY; TO PROVIDE FOR REMEDIATION; TO
12 PROVIDE PROCEDURES; TO PROVIDE FOR ENFORCEMENT;
13 TO PROVIDE FOR VIOLATIONS; TO PROVIDE PENALTIES; TO
14 PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE
15 DATE; TO REPEAL ALL ORDINANCES AND PARTS OF
16 ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER
17 PURPOSES.

18
19 **WHEREAS**, the City Council and Mayor of the City of Blue Ridge, Georgia,
20 desires to establish certain safeguards related to derelict and blighted property within
21 the City; and

22 **WHEREAS**, the City Council and Mayor of the City of Blue Ridge, Georgia,
23 finds that the provisions contained herein shall promote the health, safety, and
24 welfare of the residents of the City and those who visit the City;

48 or minimum standard codes in existence at the time such real property
49 improvements were constructed unless otherwise provided by law.

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

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

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

64 (e) *Graffiti* means any inscriptions, words, figures, paintings, or other
65 defacements that are written, marked, etched, scratched, sprayed, drawn,
66 painted, or engraved on or otherwise affixed to any surface of public or private
67 property by means of any aerosol paint container, broad-tipped marker, gum

68 label, paint stick, graffiti stick, etching equipment, brush, or other device
69 capable of scarring or leaving a visible mark on any surface without prior
70 authorization from the owner or occupant of the property.

71 (f) *Governing authority* means the City Council of the City of Blue Ridge,
72 Georgia.

73 (g) *Interested party* means:

74 (1) The "owner";

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

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

79 (4) Those parties having filed a notice in accordance with O.C.G.A. § 48-
80 3-9; and

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

87 (h) *Municipality* means the City of Blue Ridge, Georgia.

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- (i) *Owner* means the holder of the title in fee simple and every mortgagee of record.
- (j) *Public authority* means any member of the governing authority, any director of a public housing authority, or any officer who is in charge of any department or branch of government (municipal, county or state) relating to health, fire, life safety, building regulations, or to other activities concerning dwellings, buildings, or structures, or use of private property within the City.
- (k) *Public officer* means the enforcement official designated by the Mayor, who is authorized to exercise the powers prescribed by article, and any officer or employee of the City to whom he or she delegates such authority in writing.
- (l) *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.
- (m) *Resident* means any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

108 **SECTION 3**
109 **DUTY OF OWNERS OF REAL PROPERTY**
110 **AND STRUCTURES THEREON**
111

112 It is the duty of the owner of every dwelling, building, structure, or private
113 property within the jurisdiction to construct and maintain such dwelling, building,
114 structure, or property in conformance with applicable codes in force within the City
115 or such laws and ordinances which regulate and prohibit activities on private
116 property and which declare it to be a public nuisance to construct or maintain any
117 dwelling, building, structure, or use private property in violation of such codes, laws
118 or ordinances.

119 **SECTION 4**
120 **DECLARATION OF PUBLIC NUISANCE.**
121

122 Every dwelling, building, or structure within the City which (i) is constructed
123 or maintained in violation of applicable codes in force within the City; (ii) is unfit
124 for human habitation or commercial, industrial, or business use or occupancy due to
125 inadequate provisions for ventilation, light, air, sanitation, or open spaces; (iii) poses
126 an imminent harm to life or other property due to fire, flood, hurricane, tornado,
127 earthquake, storm or other natural catastrophe; (iv) is vacant and used in the
128 commission of drug crimes; (v) is occupied and used repeatedly for the commission
129 of illegal activities, including facilitating organized crime or criminal enterprises,
130 after written notice to the owner of such activities conducted therein; (vi) is
131 abandoned; or (vii) otherwise constitutes an endangerment to the public health or

132 safety as a result of unsanitary or unsafe conditions, is hereby declared a public
133 nuisance. Every private property within the City on which is being regularly
134 conducted any activity or land use in violation of applicable laws and ordinances,
135 including the zoning ordinance of this City, is hereby declared to be a public
136 nuisance. Property which may be deemed esthetically substandard or deteriorating
137 shall not meet the definition of a public nuisance unless the overall condition or use
138 of the property results in impaired health, safety, transmission of disease, infant
139 mortality, or crime.

140 **SECTION 5**
141 **POWERS OF ENFORCEMENT OFFICIAL OR HIS/HER DESIGNEE**
142

143 (a) A duly authorized enforcement official or officials, in carrying out his/her
144 duties pursuant to this article, the enforcement official or his/her designee to
145 whom his/her authority is assigned shall, in addition to those powers
146 otherwise conferred upon or delegated to him/her by the Charter and/or other
147 ordinances of the City, be empowered to:

148 (1) Investigate and inspect the condition of dwellings, buildings, structures,
149 and private property within the City to determine those structures and
150 property uses in violation of this article. Entries onto private property
151 shall be made in a manner so as to cause the least possible
152 inconvenience; provided, however, the enforcement official shall not
153 enter into any occupied dwelling or structure without first having

154 obtained the consent of the owner or a person in possession. In those
155 cases where consent to entry is denied after reasonable request, the
156 enforcement official may apply to the municipal court for an
157 administrative search warrant upon showing probable cause that a
158 violation exists.

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

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

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

166 (b) In addition to the procedures set forth in this article, the enforcement official
167 or his/her designee(s) may issue citations for violations of state minimum
168 standard codes, optional building, fire, life safety and other codes adopted by
169 ordinance, and conditions declared to constitute a public health or safety
170 hazard or general nuisance, and to seek enforcement of such citations before
171 the municipal court prior to issuing a complaint in rem as provided in this
172 article. Nothing in this article shall be construed to impair or limit in any way

173 the power of the City to define and declare nuisances and to cause their
174 removal or abatement by other summary proceedings.

175 **SECTION 6**
176 **COMPLAINT IN REM IN MUNICIPAL COURT;**
177 **PROCEDURE; LIEN; APPEAL**
178

179 (a) Whenever a request is filed with the public officer by a public authority or by
180 at least five (5) residents of the municipality charging that any dwelling,
181 building, structure, or property is unfit for human habitation or for
182 commercial, industrial, or business use and not in compliance with applicable
183 codes; is vacant and being used in the commission of drug crimes; or
184 constitutes an endangerment to the public health or safety as a result of
185 unsanitary or unsafe conditions, the public officer may make an investigation
186 or inspection of the specific dwelling, building, structure, or property and
187 make a written report of his findings. Such officer shall be guided in his/her
188 investigation by documenting conditions, which include but are not limited
189 to:

- 190 (1) Defects therein increasing the hazards of fire, accidents, or other
191 calamities;
- 192 (2) Lack of adequate ventilation, light, or sanitary facilities;
- 193 (3) Dilapidation;
- 194 (4) Disrepair by failure to conform to applicable codes and ordinances;

195 (5) Structural defects which render the structure unsafe for human
196 habitation or occupancy;

197 (6) Uncleanliness; or

198 (7) The presence of graffiti which is visible from adjoining public or
199 private property.

200 (b) If the public officer's investigation or inspection identifies that any dwelling,
201 building, structure, or property is unfit for human habitation or for
202 commercial, industrial, or business use and not in compliance with applicable
203 codes; is vacant and being used in connection with the commission of drug
204 crimes; or constitutes an endangerment to the public health or safety as a result
205 of unsanitary or unsafe conditions, the public officer shall file a complaint in
206 rem in the municipal court of the City against the lot, tract, or parcel of real
207 property on which such dwelling, building, or structure is situated or where
208 such public health hazard or general nuisance exists and shall cause summons
209 and a copy of the complaint to be served on the interested parties in such
210 dwelling, building, or structure. The complaint shall identify the subject real
211 property by appropriate street address and official tax map reference; identify
212 the interested parties; state with particularity the factual basis for the action;
213 and contain a statement of the action sought by the public officer to abate the
214 alleged nuisance. The summons shall notify the interested parties that a

215 hearing will be held before the municipal court at a date and time certain and
216 at a place within the or municipality where the property is located. Such
217 hearing shall be held not less than fifteen (15) days nor more than forty-five
218 (45) days after the filing of said complaint in the proper court. The interested
219 parties shall have the right to file an answer to the complaint and to appear in
220 person or by attorney and offer testimony at the time and place fixed for
221 hearing.

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

231 (1) If the repair, alteration, or improvement of the said dwelling, building,
232 or structure can be made at a reasonable cost in relation to the present
233 value of the dwelling, building, or structure, requiring the owner, within
234 the time specified in the order, to repair, alter, or improve such

235 dwelling, building, or structure so as to bring it into full compliance
236 with the applicable codes relevant to the cited violation; and, if
237 applicable, to secure by closing the structure so that it cannot be used
238 in connection with the commission of drug crimes; or

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

246 For purposes of this section, the court shall make its determination of
247 reasonable cost in relation to the present value of the dwelling, building, or
248 structure without consideration of the value of the land on which the structure
249 is situated; provided, however, that costs of the preparation necessary to
250 repair, alter, or improve a structure may be considered; and, provided further,
251 that if the unsatisfactory condition is limited solely to the presence of graffiti,
252 the dwelling, building or structure shall not be ordered demolished or closed,
253 but its owner may be ordered to repair the same by cleaning or removal of the
254 graffiti. Income and financial status of the owner shall not be a factor in the

255 court's determination. The present value of the structure and the costs of
256 repair, alteration, or improvement may be established by affidavits of real
257 estate appraisers with a Georgia appraiser classification as provided in
258 O.C.G.A. Title 43, Chapter 39A, qualified building contractors, or qualified
259 building inspectors without actual testimony presented. Costs of repair,
260 alteration, or improvement of the structure shall be the cost necessary to bring
261 the structure into compliance with the applicable codes relevant to the cited
262 violations in force in the jurisdiction.

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

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

281 (e) If the public officer has the structure demolished, reasonable effort shall be
282 made to salvage reusable materials for credit against the cost of demolition.
283 The proceeds of any moneys received from the sale of salvaged materials shall
284 be used or applied against the cost of the demolition and removal of the
285 structure, and proper records shall be kept showing application of sales
286 proceeds. Any such sale of salvaged materials may be made without the
287 necessity of public advertisement and bid. The public officer and governing
288 authority are relieved of any and all liability resulting from or occasioned by
289 the sale of any such salvaged materials, including, without limitation, defects
290 in such salvaged materials.

291 (f) The amount of the cost of demolition, including all court costs, appraisal fees,
292 administrative costs incurred by the City, and all other costs necessarily
293 associated with the abatement action, including restoration to grade of the real

294 property after demolition, shall be a lien against the real property upon which
295 such cost was incurred.

296 (g) The lien provided for in subsection (e) shall attach to the real property upon
297 the filing of a certified copy of the order requiring repair, closure, or
298 demolition in the office of the clerk of superior court in Fannin County and
299 shall relate back to the date of the filing of the *lis pendens* notice required
300 under subsection (a). The Clerk of Superior court shall record and index such
301 certified copy of the order in the deed records of the county and enter the lien
302 on the general execution docket. The lien shall be superior to all other liens
303 on the property, except liens for taxes to which the lien shall be inferior and
304 shall continue in force until paid. After filing a certified copy of the order with
305 the Clerk of Superior Court, the public officer shall, within ninety (90) days
306 of the completion of repairs, demolition or closure, forward a copy of the order
307 and a final statement of costs to the county tax commissioner.

308 (h) It shall be the duty of the county tax commissioner to collect the amount of
309 the lien in conjunction with the collection of ad valorem taxes on the property
310 and to collect the amount of the lien as if it were a real property ad valorem
311 tax, using all methods available for collecting real property ad valorem taxes,
312 including specifically O.C.G.A. § 48-4-5; provided, however, that the
313 limitation of O.C.G.A § 48-4-78 which requires twelve (12) months of

314 delinquency before commencing a tax foreclosure shall not apply; provided,
315 further, that redemption of property from the lien may be made in accordance
316 with the provisions of O.C.G.A. §§ 48-4-80 and 48-4-81. The tax
317 commissioner may initiate enforcement of liens imposed under this section at
318 any time following receipt of the final determination of costs from the public
319 officer. The unpaid lien amount shall bear interest and penalties from and after
320 the date of final determination of costs in the same amount as applicable to
321 interest and penalties on unpaid real property ad valorem taxes.

322 (i) The tax commissioner shall remit the amount collected to the governing
323 authority of the municipality whose ordinance is being enforced. The tax
324 commissioner may retain an amount equal to the cost of administering
325 collection of the lien. Any such amount collected and retained for
326 administration shall be deposited in the general fund of the county to pay the
327 cost of administering the lien.

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

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

337 **SECTION 7**
338 **SERVICE OF COMPLAINTS OR ORDERS**
339 **UPON OWNERS AND PARTIES IN INTEREST**
340

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

343 (1) In all cases, a copy of the complaint and summons shall be
344 conspicuously posted on the subject dwelling, building, structure, or
345 property within three (3) business days of filing of the complaint and at
346 least fifteen (15) days prior to the date of the hearing.

347 (2) At least fifteen (15) days prior to the date of the hearing, the public
348 officer shall mail copies of the complaint and summons by certified
349 mail or statutory overnight delivery, return receipt requested, to all
350 interested parties whose identities and addresses are readily
351 ascertainable. Copies of the complaint and summons shall also be
352 mailed by first-class mail to the property address to the attention of the
353 occupants, if any;

354 (3) For interested parties whose mailing address is unknown, a notice
355 stating the date, time, and place of the hearing shall be published in the

356 newspaper in which the sheriff's advertisements appear in such county
357 once a week for two consecutive weeks prior to the hearing; and

358 (4) A notice of lis pendens shall be filed in the office of the Clerk of
359 Superior court in which the dwelling, building, structure, or property is
360 located at the time of filing the complaint in municipal court.

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

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

371 **SECTION 8**
372 **LIMITATION OF LIABILITY FOR CODE ENFORCEMENT; NO**
373 **SPECIAL DUTY CREATED**
374

375 It is the intent of this article to protect the public health, life safety and general
376 welfare of properties and occupiers of buildings and structures within the City in
377 general, but not to create any special duty or relationship with any individual person

378 or to any specified property within or without the boundaries of the City. Approval
379 of a permit and inspection of a property shall in no manner guarantee or warrant to
380 the owner or occupants thereof that said property has been constructed, maintained,
381 or operated in conformance with applicable codes, laws and regulations. The City
382 reserves the right to assert all available immunities and defenses in any action
383 seeking to impose monetary damages upon the City, its officers, employees and
384 agents arising out of any alleged failure or breach of duty or relationship as may now
385 exist or hereafter be created. To the extent any federal or state law, regulation, or
386 ordinance requires compliance as a condition precedent to the issuance of a permit,
387 plan or design approval, inspection or other activity by the City, its officers,
388 employees and agents, issuance of such permit, approval, or inspection shall not be
389 deemed to constitute a waiver or estoppel of the condition precedent, and it shall
390 remain the obligation and responsibility of the owner, his design professional(s), and
391 contractor(s) to satisfy such legal requirements.

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394 **SECTION 9**
395 **GENERAL CLEANLINESS OF PREMISES**
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397 The owner and occupant of property within the City shall each be
398 independently responsible for keeping the premises, including all buildings thereon
399 and the full yard thereof, clean and free from all garbage, refuse, filth, dirt, ashes,
400 trash, rubbish and other offensive materials.

SECTION 10
DISORDERLY HOUSE

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- (a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the City; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.
- (b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the City; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual

423 knowingly and without authority remains on private property after being
424 notified by the owner or lawful occupant to depart.

425 **SECTION 11**
426 **VIOLATIONS; ENFORCEMENT PENALTIES**
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428 Any person who willfully refuses to comply with the provisions of this article
429 shall be cited to appear before the municipal court and, upon conviction, shall be
430 fined not less than \$500.00; each day of continued violation, after citation, shall
431 constitute a separate offense. In addition to the foregoing fines, upon conviction, the
432 director shall discontinue the public water supply service at any premises upon
433 which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-
434 connection, and service shall not be restored until such cross-connection, auxiliary,
435 by-pass, or inter-connection has been discontinued.

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439 **REFERENCE**
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441 The Municipal Code of the City of Blue Ridge is amended by adding a new Article,
442 to be numbered Article as provided by law, which shall include the following
443 language:

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Article _____

446

447 **SECTION 1**
448 **SHORT TITLE.**

449 This Article shall be known as the “Blue Ridge Blighted Property Ordinance.”
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451 **SECTION 2**
452 **PURPOSE**

453 The existence of real property which is maintained in a blighted condition
454 increases the burden of the state and local government by increasing the need for
455 government services, including but not limited to social services, public safety
456 services, and code enforcement services. Rehabilitation of blighted property
457 decreases this need for such government services.
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459 In furtherance of its objective to eradicate conditions of slum and blight within
460 the City, in exercise of the powers granted to municipal corporations at Chapter 61,
461 Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has
462 designated those areas of the City where conditions of slum and blight are found or
463 are likely to spread.

464 In recognition of the need for enhanced governmental services and in order to
465 encourage private property owners to maintain their real property and the buildings,
466 structures and improvement thereon in good condition and repair

467 **SECTION 3**
468 **DEFINITIONS**

469 (a) ‘Blighted property’, ‘blighted’, or ‘blight’ means any urbanized or developed
470 property which:
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- 472 (1) Presents two or more of the following conditions:
- 473 (A) Uninhabitable, unsafe, or abandoned structure;
- 474 (B) Inadequate provisions for ventilation, light, air, or sanitation;
- 475 (C) An imminent harm to life or other property caused by fire, flood,
- 476 hurricane, tornado, earthquake, storm, or other natural
- 477 catastrophe respecting which the governor has declared a state of
- 478 emergency under the state law or has certified the need for
- 479 disaster assistance under federal law; provided, however, this
- 480 division shall not apply to property unless the relevant public
- 481 agency has given notice in writing to the property owner
- 482 regarding specific harm caused by the property and the owner
- 483 has failed to take reasonable measures to remedy the harm;
- 484 (D) A site identified by the federal Environmental Protection Agency
- 485 as a superfund site pursuant to 42 U.S.C. Section 9601, et seq.,
- 486 or having environmental contamination to an extent that requires
- 487 remedial investigation or a feasibility study;
- 488 (E) Repeated illegal activity on the individual property of which the
- 489 property owner knew or should have known; or

490 (F) The maintenance of the property is below municipal codes for at
491 least one year after written notice of the code violation to its
492 owner; and

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

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

496 (b) ‘Building inspector’ means a certified inspector possessing the requisite
497 qualifications to determine minimal code compliance.

498 (c) ‘Community redevelopment’ means any activity, project, or service necessary
499 or incidental to achieving the redevelopment or revitalization of a
500 redevelopment area or portion thereof designated for redevelopment through
501 an urban redevelopment plan or thorough local ordinances relating to the
502 repair, closing, and demolition of buildings and structures unfit for human
503 habitation.

504 (d) ‘Governing authority’ means the City Council of the City of Blue Ridge, a
505 Georgia municipal corporation.

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

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

512 (g) Public officer means the enforcement official designated by the Mayor, who
513 is authorized to exercise the powers prescribed by article, and any officer or
514 employee of the City to whom he or she delegates such authority in writing.

515 ‘

516 **SECTION 4**
517 **AD VALOREM TAX INCREASE ON BLIGHTED PROPERTY**
518

519 (a) There is hereby levied on all real property within the City which has been
520 officially identified as maintained in a blighted condition an increased ad
521 valorem tax by applying a factor of seven (7.0) to the millage rate applied to
522 the property, so that such property shall be taxed at a higher millage rate
523 generally applied in the municipality, or otherwise provided by general law;
524 provided, however, real property on which there is situated a dwelling house
525 which is being occupied as the primary residence of one or more persons shall
526 not be subject to official identification as maintained in a blighted condition
527 and shall not be subject to increased taxation.

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

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

535 **SECTION 5**
536 **IDENTIFICATION OF BLIGHTED PROPERTY**
537

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

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

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

547 (B) The public officer may cause a survey of existing housing
548 conditions to be performed, or may refer to any such survey
549 conducted or finalized within the previous five years, to locate or
550 identify any parcels which may be in a blighted condition and for
551 which a full inspection should be conducted to determine if that

552 parcel of property meets the criteria set out in this article for
553 designation as being maintained in a blighted condition.

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

563
564 (3) Following completion of the inspection report, the public officer shall
565 make a determination, in writing, that a property is maintained in a
566 blighted condition, as defined by this article, and is subject to increased
567 taxation.

568 (4) The public officer shall cause a written notice of his determination that
569 the real property at issue is being maintained in a blighted condition to
570 be served upon the person(s) shown on the most recent tax digest of
571 Fannin County as responsible for payment of ad valorem taxes assessed

572 thereon; provided, however, where through the existence of reasonable
573 diligence it becomes known to the public officer that real property has
574 been sold or conveyed since publication of the most recent tax digest,
575 written notice shall be given to the person(s) known or reasonably
576 believed to then own the property or be chargeable with the payment of
577 ad valorem taxes thereon, at the best address available. Service in the
578 manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice
579 to the property's owner or person chargeable with the payment of ad
580 valorem taxes for purpose of this section, except that posting of the
581 notice on the property will not be required.

582

583 (b) The written notice given to the person(s) chargeable with the payment of ad
584 valorem taxes shall notify such person of the public officer's determination
585 the real property is being maintained in a blighted condition and shall advise
586 such person of the hours and location at which the person may inspect and
587 copy the public officer's determination and any supporting documentation.
588 Persons notified that real property of which the person(s) is chargeable with
589 the payment of ad valorem taxes shall have 30 days from the receipt of notice
590 in which to request a hearing before the City's municipal court. Written
591 request for hearing shall be filed with the public officer and shall be date

592 stamped upon receipt. Upon receipt of a request for hearing, the public officer
593 shall notify the municipal court and the building inspector or person who
594 performed the inspection and prepared the inspection report.

595 (c) Within thirty (30) days of the receipt of a request for hearing, the municipal
596 court clerk shall set a date, time and location for the hearing and shall give at
597 least ten business days notice to the person(s) requesting the hearing, the
598 public officer and the building inspector or person who performed the
599 inspection and prepared the inspection report. Notice of scheduled hearings
600 shall be published as a legal advertisement in the designated legal organ in
601 Fannin County, at least five (5) days prior to the hearing. Hearings may be
602 continued by the municipal court judge upon request of any party, for good
603 cause.

604 (d) At the hearing, the public officer shall have the burden of demonstrating by a
605 preponderance of the evidence that the subject property is maintained in a
606 blighted condition, as defined by this article. The municipal court judge shall
607 cause a record of the evidence submitted at the hearing to be maintained. Upon
608 hearing from the public officer and/or their witnesses and the person(s)
609 requesting the hearing and/or their witnesses, the judge of municipal court
610 shall make a determination either affirming or reversing the determination of
611 the public officer. The determination shall be in writing and copies thereof

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

617 (e) Persons aggrieved by the determination of the court affirming the
618 determination of the public officer may petition the Superior Court of Fannin
619 County for a writ of certiorari within 30 days of issuance of the court's written
620 determination.

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623 **SECTION 6**
624 **REMEDIAION OR REDEVELOPMENT**
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628 (a) A property owner or person(s) who is chargeable with the payment of ad
629 valorem taxes on real property which has been officially designated pursuant
630 to this article as property maintained in a blighted condition may petition the
631 public officer to lift the designation, upon proof of compliance with the
632 following:

633 (1) Completion of work required under a plan of remedial action or
634 redevelopment approved by the Mayor or her designee which addresses

635 the conditions of blight found to exist on or within the property,
636 including compliance with all applicable minimum codes; or

637 (2) Completion of work required under a court order entered in a
638 proceeding brought pursuant to Georgia law including, but not limited
639 to, O.C.G.A. § 41-2-1 et seq.

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

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

- 654 (1) The plan shall be consistent with the City's comprehensive plan and all
655 laws and ordinances governing the subject property, and shall conform
656 to any urban redevelopment plan adopted for the area within which the
657 property lies;
- 658 (2) The plan shall set forth in reasonable detail the requirements for repair,
659 closure, demolition, or restoration of existing structures, in accordance
660 with minimal statewide codes; where structures are demolished, the
661 plan shall include provisions for debris removal, stabilization and
662 landscaping of the property;
- 663 (3) On parcels of five acres or greater, the plan shall address the
664 relationship to local objectives respecting land uses, improved traffic,
665 public transportation, public utilities, recreational and community
666 facilities, and other public improvements;
- 667 (4) The plan shall contain verifiable funding sources which will be used to
668 complete its requirements and show the feasibility thereof;
- 669 (5) The plan shall contain a timetable for completion of required work; and
- 670 (6) Any outstanding ad valorem taxes (state, school, county and city,
671 including the increased tax pursuant to this article) and governmental
672 liens due and payable on the property must be satisfied in full.

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SECTION 8
NOTICE TO TAX COMMISSIONER

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

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689 **SECTION 9**
REPEAL OF CONFLICTING ORDINANCES TO REMOVE CONFLICT

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691 With the exception of any zoning ordinance or zoning classification, all parts
692 of ordinances in conflict with the terms of this ordinance are hereby repealed to the
693 extent of the conflict, but it is hereby provided that any ordinance or law which may
694 be applicable hereto and aid in carrying out and making effective the intent, purpose
695 and provisions hereof, is hereby adopted as a part hereof and shall be legally
696 construed to be in favor of upholding this Ordinance on behalf of the City of Blue
697 Ridge, Georgia.

698 **SECTION 10**
699 **SEVERABILITY**

701 If any paragraph, subparagraph, sentence, clause, phrase or any other portion
702 of this Ordinance should be declared invalid or unconstitutional by any Court of
703 competent jurisdiction or if the provisions of any part of this Ordinance as applied
704 to any particular person, situation or set of circumstances is declared invalid or
705 unconstitutional, such invalidity shall not be construed to affect the provisions of
706 this Ordinance not so held to be invalid, or the application of this Ordinance to other
707 circumstances not so held to be invalid. It is hereby declared to be the legislative
708 intent of the City Council of the City of Blue Ridge, Georgia to provide for separate
709 and divisible parts and it does hereby adopt any and all parts hereof as may not be
710 held invalid for any reason.

711 **SECTION 11**
712 **EFFECTIVE DATE**

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714 The effective date of this Ordinance shall be immediately upon its passage by
715 the City Council and execution by the Mayor or upon fifteen (15) days expiring from
716 the date of its passage without a veto of said Ordinance by the Mayor as set forth in
717 the City Charter at Section 3.23(b).

718 SO ORDAINED, this 9 day of July, 2019

BLUE RIDGE CITY COUNCIL

By: _____
Mayor

Attest Ordinance Passed: _____

Attest:

City Clerk Kelsey Ledford