

09-O-0407

A SUBSTITUTE ORDINANCE BY THE COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND SECTIONS 18 AND 19 OF THE ATLANTA HOUSING CODE OF 1987, SECTION 8-2094 OF THE ATLANTA COMMERCIAL, INSTITUTIONAL, & INDUSTRIAL BUILDING MAINTENANCE CODE AND TO ADD A NEW CHAPTER 17 TO THE LAND DEVELOPMENT CODE; SO AS TO PROVIDE A NEW MINIMUM FINE SCHEDULE FOR CODE VIOLATIONS; TO AMEND ORDINANCE 08-O-2059 FOR CORRECTIVE PURPOSES; AND FOR OTHER PURPOSES.

WHEREAS, the enforcement of various codes including the Atlanta Housing Code resides within the Bureau of Code Compliance and is an integral part of providing for the health, safety, and general welfare of the city's residents; and

WHEREAS, the Atlanta Housing Code currently imposes minimum fines in the event of conviction in the Atlanta Municipal Court; and

WHEREAS, the City finds that the amount of the fine should be determined in part by whether or not compliance has been achieved at the time of sentencing by the Court; and

WHEREAS, the City finds it in the interests of the public health, safety and welfare that a new fine structure and schedule be implemented to conform to best practices from around the country; and

WHEREAS, the City finds it in the interests of the public health, safety and welfare that individuals claiming financial hardship in complying with the Atlanta Housing Code on account of age (62 or over), physical disability, or mental disability, be provided information on public and private resources by the Bureau of Code Compliance in order to assist in compliance; and

WHEREAS, Ordinance # 08-O-2059, adopted by the City Council on November 17, 2008, amended Section 19 of the Atlanta Housing Code to state that no official correction notice is required prior to issuing a citation for highly hazardous conditions but in which the resultant codification of said amendment incorrectly removed paragraphs a) through h) listing highly hazardous conditions, thereby necessitating the correction of this erroneous codification.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

Section 1: That paragraph (d) of Section 18 of the Atlanta Housing Code entitled “Penalties” is hereby amended as follows (with deletions ~~struck through~~ and additions underlined):

d) *Penalties.* Failure to comply with any provision of this Code shall constitute an offense and shall be punishable as follows:

(1) ~~Each separate~~A first conviction for violation of this Code shall be punishable by a fine of not less than ~~One Hundred Fifty Dollars~~ (~~\$100~~250.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A first conviction for violation of this Code shall be punishable by a fine not less than Three Hundred Fifty Dollars (\$350.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(2) A second conviction for violation of this Code shall be punishable by a fine of not less than Three Hundred and Fifty dollars (\$350.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A second conviction for violation of this Code shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(3) A ~~third or subsequent~~ conviction for violation of this Code shall be punishable by a fine of ~~One Thousand~~Five Hundred Dollars (~~\$1,0~~500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A third conviction for violation of this Code shall be punishable by a fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(4) A fourth or subsequent conviction for violation of this Code shall be punishable by a fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both.

(4) In each instance where the Municipal Court resets the case to afford the defendant an opportunity to come into compliance, tThe Municipal Court shall levy a fee of One Hundred Dollars (\$100.00) for each re-inspection by ~~City Housing Inspectors~~a Code Enforcement Officer of properties found in violation of this Code where, after the re-inspection, the property continues to be in non-compliance.

(5) Where a person shall be convicted of more than one (1) offense and sentenced to imprisonment, such sentences shall be served concurrently; provided, however, that the judge may, at his or her discretion, direct that these sentences run severally if said sentence would not exceed one hundred and eighty (180) days.

(6) Any or all of the penalties prescribed in this Subsection may be imposed upon the appropriate officers or partners of a corporation, partnership or other legal entity that acts unlawfully pursuant to Section 17(a).

Section 2: That Section 18 of the Atlanta Housing Code entitled “Penalties” is hereby amended by adding a new paragraph (h) entitled “Penalties for Sec. 19 Violations” to read as follows:

(h) Notwithstanding paragraph (d), failure to comply with any provision of Sec. 19 of this Code shall constitute an offense and shall be punishable as follows:

1) A first conviction for violation of Sec. 19 of this Code shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A first conviction for violation of Sec. 19 of this Code shall be punishable by a fine of not less than Seven Hundred Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(2) A second or subsequent conviction for violation of Sec 19 of this Code shall be punishable by a fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both.

Section 3: That paragraph (c) of Section 8-2094 of the Atlanta Commercial, Institutional, & Industrial Building Maintenance Code, entitled “Penalties” is hereby amended as follows (with deletions ~~struck through~~ and additions underlined):

(c) *Penalties.* Failure to comply with any provision of this Code shall constitute an offense and shall be punishable as follows:

(1) Upon a first conviction, each separate for violation of this Code shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than 60 days or both if the violation has been brought into compliance at the time of sentencing. A first conviction for violation of this Code shall be punishable by a fine of not less than Seven Hundred Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(2) A second or subsequent conviction for violation of this eCode shall be punishable by a fine of ~~not less than One Thousand Dollars (\$750~~1,000.00) ~~per separate offense nor more than \$1,000.00~~ or imprisonment for not more than sixty (60) days or both.

~~(3) A third conviction and any conviction thereafter of this code shall be punishable by a fine of \$1,000.00 per separate offense nor more than 60 days or both.~~

(43) Where a person shall be convicted of more than one offense and sentenced to imprisonment, said sentences shall be served concurrently; provided however, the judge may in his/her discretion, direct that these sentences run severally if said sentence would not exceed 180 days.

(54) Any or all penalties prescribed in this subsection may be imposed upon the appropriate officers or partners of a corporation, partnership or other legal entity for the failure to comply with any provision of this Code.

Section 4: That Part 17 of the Land Development Code entitled “Offenses” is hereby by amended by adding Chapter 1 (formally reserved) to be entitled “Zoning Ordinance Offenses” to read as follows:

Chapter 1. Zoning Ordinance Offenses

Sec. 17-1001. Violation of Atlanta Zoning Ordinance.

In accordance with Sec. 16-30.002 and Sec. 1-8 of the City Code, failure to comply with any provision of part 16 of the Land Development Code entitled “Atlanta Zoning Ordinance” shall constitute an offense and shall be punishable as follows:

(1) A first conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A first conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(2) A second conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of not less than Four Hundred Dollars (\$400.00) nor more than One Thousand Dollars (\$1000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A second conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(3) A third conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of not less than Seven Hundred Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has been brought into compliance at the time of sentencing. A third conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than sixty (60) days or both if the violation has not been brought into compliance at the time of sentencing.

(4) A fourth or subsequent conviction for violation of the Atlanta Zoning Ordinance shall be punishable by a fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than one-hundred eighty (180) days or both.

(4) The Municipal Court shall levy a fee of One Hundred Dollars (\$100.00) for each re-inspection by a Code Enforcement Officer of properties found in violation of the Atlanta Zoning Ordinance where, after the re-inspection, the property continues to be in non-compliance.

(5) Where a person shall be convicted of more than one (1) offense and sentenced to imprisonment, such sentences shall be served concurrently; provided, however, that the judge may, at his or her discretion, direct that these sentences run severally if said sentence would not exceed one hundred and eighty (180) days.

(6) Any or all of the penalties prescribed herein may be imposed upon the appropriate officers or partners of a corporation, partnership or other legal entity for the failure to comply with any provisions of the Atlanta Zoning Ordinance.

Section 5: That Ordinance 08-O-2059 be amended to correct Section 11 of said Ordinance to read and be codified as Section 19 of the Atlanta Housing Code as follows:

Sec. 19. Highly Hazardous Conditions.

It shall be unlawful for any owner or operator to allow, or for any occupant to cause the following highly hazardous property conditions, any of which may constitute a nuisance as defined in Section 6 and 12. Notwithstanding any provision of this Article to the contrary, no notice of violation of this Section shall be required prior to initiating procedures for court action as provided in Section 18.

- (a) Roofs, floors or supporting members, including, but not limited, to girders, sills, joists and studs, which show thirty-three per cent (33%) or more damage or deterioration or which are of sufficient size or strength to safely support imposed loads;
- (b) Nonsupporting enclosing or outside walls or coverings which show fifty per cent (50%) or more damage or deterioration;
- (c) Defective or improperly maintained electrical, heating, ventilation, sanitation or like facilities which endanger or insufficiently protect the health, safety or general welfare of the occupants;
- (d) Means of egress and ingress, which in the determination of the Director, are defective or unsafe, or substantially smaller than the dimensions required by law;
- (e) Vacant Dwellings which are open and unsecured against unforced entry;
- (f) Conditions which, in the determination of the Director, are dilapidated, decayed, unsafe, unsanitary or that unreasonably expose occupants or the general public to illness, disease or physical injury;
- (g) Conditions which in the determination of the Director, unreasonably expose occupants to rain, moisture or cold air;
- (h) Any other condition which, in the determination of the Director, is unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or general public.

Section 6: At the time of issuance of a notice of non-compliance or a citation, which ever occurs first, the Bureau of Code Compliance shall provide a list of public and privates resources, as on file with the Bureau, that are available to assist in the compliance of the violation, to any individual that claims a financial hardship on account of age (62 or over), physical disability and/or mental disability.

Section 7: That all ordinances or parts thereof in conflict with this ordinance are hereby waived to the extent of the conflict.