

AN ORDINANCE TO AMEND CHAPTER 42 OF THE ROCKDALE COUNTY CODE OF ORDINANCES, AS AMENDED, SO AS TO AMEND PROVISIONS RELATING TO UNFIT BUILDINGS OR STRUCTURES AND HEALTH HAZARDS ON PRIVATE PROPERTY; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, Chapter 42 of the Code of Rockdale County Georgia, sets forth county regulations regarding the environment generally; and,

WHEREAS, Division 3 of Article III of the code of Rockdale County, Georgia, sets forth county regulations regarding unfit buildings or structures and health hazards on private property; and,

WHEREAS, following a review of those regulations, the Board of Commissioners finds that the following amendment to the regulations regarding unfit buildings or structures and health hazards on private property is appropriate in order to advance the public health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of Rockdale County, Georgia, and it is hereby ordained by the authority of same as follows:

Section 1

That a new Division 3 within Article III, Chapter 42 of the Code of Rockdale County, Georgia be adopted, which new Division shall provide as follows:

“Division 3. Unfit Buildings or Structure; Health Hazards on Private Property”

Section 2

That a new Section 42-109 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

“Section 42-109. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Closing means securing and causing a dwelling, building, or structure to be vacated.

Drug crime means an act which is a violation of O.C.G.A. § 16-13-20 et seq., known as the “Georgia Controlled Substances Act.”

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 used for same, and including any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design.

Owner means any person or persons having any individual, joint, or common title or interest in real property defined by the laws of the State of Georgia as a legal or equitable estate or interest.

Parties in interest means:

- (1) Persons in possession of property and premises;
- (2) Persons having a record of any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated, or upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia;
- (3) Persons having paid an occupational tax to the governing authority for a location or office at the subject building or structure; or
- (4) Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

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 county or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings or structures in the county or municipality.

Public officer means the director of the department of Planning & Development or his/her designee and shall be the officer authorized to exercise the powers described in this division or by any agent of such officer.

Repair means altering or improving a dwelling, building, or structure so as to bring the structure into compliance with the applicable codes of 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.

Section 3

That a new Section 42-110 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-110. Service of Complaint.

- (a) Whenever a request is filed with the public officer by a public authority or by at least five residents of the unincorporated area of the county charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial or business use and is 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.

(1) If the officer's investigation or inspection identifies that any dwelling, building, structure, or property unfit for human habitation or for commercial, industrial, or business use and is 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 owner and parties in interest of such dwelling, building, or structure.

(a) The complaint shall identify the subject real property by appropriate street address and official tax map reference;

(b) Identify the owner and parties in interest;

(c) State with particularity the factual basis for the action; and

(d) Contain a statement of the action sought by the public officer to abate the alleged nuisance.

(e) The summons shall notify the owner and parties in interest that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain, and at a place within the country where the property is located. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of such complaint in the proper court. The owner and parties in interest 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.

(b) If, after such notice and hearing, the court determines that the dwelling, building, or structure 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; 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 court shall state, in writing, findings of fact in support of such determination and shall issue an order and cause same to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing.

(1) If the repair, alteration, or improvement of such dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building or structure 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 such dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.
- (3) For purposes of this section, the court shall make its determination of “reasonable cost in relation to the present value of the dwelling, building, or structure” without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be a factor in the court’s determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a state appraiser classification as provided in O.C.G.A. § 43-39A-1 et seq., qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction.
- (c) If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building or structure to be repaired, altered, or improved, or to be vacated and closed or demolished. 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 has been ordered secured to prevent its use in connection with drug crimes, 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.’
- (d) The duties of the public officer set forth in subsections (b) and (c) of this section shall not be exercised until the Board of Commissioners shall have, by ordinance, ordered the public officer to proceed to effectuate the purpose of this division with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation or unfit for its commercial, industrial, or business use.

Section 4

That a new Section 42-111 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-111. Recoupment of costs.

The recoupment of costs for vacating and closing or removal or demolition by the public officer shall be effectuated by the provisions of O.C.G.A. § 41-2-9.

Section 5

That a new Section 42-112 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-112. Determination by public officer that dwelling, building, or structure is unfit, vacant, or dilapidated.

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/she finds that the conditions existing in such building, dwelling, or structure are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, building or structure or of the occupants of the neighboring dwellings, buildings, or structure or of other residents of the county. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defect therein increasing the hazard of fire, accidents or other calamities,
- (2) Lack of adequate ventilation, light of sanitary facilities,
- (3) Dilapidation,
- (4) Disrepair,
- (5) Structural Defects, and/or;
- (6) Uncleanliness.

Section 6

That a new Section 42-113 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-113. Power of public officer in regard to unfit buildings or structures.

The public officer may exercise such powers as necessary or are convenient to carry out and effectuate the purpose of the provisions contained in this divisions, including the following:

- (1) To investigate the dwelling conditions in the unincorporated area of the county in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for for the 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 the premises for the purpose of making examinations; however, such entries shall be made in such a manner as to cause the least possible inconvenience to the person in possession.
- (4) To appoint and fix the duties of such officers, agents, and employees as he/she deems necessary to carry out the purposes of this division.
- (5) To delegate any of his functions under this division to such officers and agents as he/she may designate.

Section 7

That a new Section 42-114 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-114. Service of complaints or other orders upon parties in interest and owners of unfit buildings or structures.

Complaints or orders issued by the public officer pursuant to this division shall be, in all cases, served in accordance with the provisions of O.C.G.A. § 41-2-12 (a) – (h).

Section 8

That a new Section 42-115 of Article III of the Code of Rockdale County, Georgia be adopted which new section shall provide as follows:

Section 42-115. Injunctions against order to repair.

Any person affected by an order issued by the public officer may petition to the superior court for an injunction restraining the public officer from carrying out the provisions of the order pursuant to the provisions of O.C.G.A. § 41-2-13 and the time requirements provided therein.

Secs. 42-116 - 42-120. Reserved.”

Section 9

That all ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed.

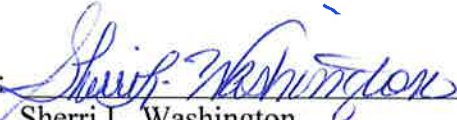
Section 10

That this Ordinance shall become effective upon adoption.

This 21st day of December, 2020. 2d4

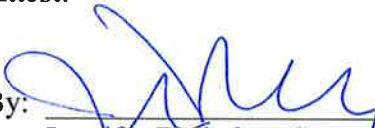
**Rockdale County, Georgia
Board of Commissioners**

By: 
Oz Nesbitt, Sr., Chairman

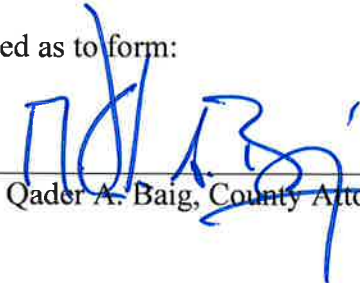
By: 
Sherri L. Washington

By: 
Doreen L. Williams

Attest:

By: 
Jennifer Rutledge, County Clerk

Approved as to form:

By: 
M. Qader A. Baig, County Attorney

1st reading 12/10/2019

2nd reading waived