

ORDINANCE

AN ORDINANCE REGULATING THE ABATEMENT OF NUISANCES IN THE UNINCORPORATED AREA OF MADISON COUNTY

WHEREAS, the Madison County Board of Commissioners has determined that for the purpose of protecting and preserving the public health, safety, and welfare in the unincorporated area of the County it is necessary to enact an ordinance Regulating the Abatement of Nuisances in the Unincorporated Area of Madison County; and

WHEREAS, O.C.G.A. § 41-2-7, et. seq., confers authority on the Madison County Board of Commissioners to enact such an ordinance;

THEREFORE BE IT RESOLVED, that the following be enacted into the Madison County Code of Ordinances as Article V of Chapter 14:

"ARTICLE V. NUISANCE ABATEMENT.

Section 14-180. Legislative Findings.

(a) The governing authority of Madison County finds that there exist in Madison County dwellings, buildings, or structures 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 facilities; or 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 such county or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed. The governing authority hereby exercises its police power under O.C.G.A. § 41-2-7, et. seq., repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in said statutes.

(b) The provisions of this Article V of Chapter 14 of the Madison County Code of Ordinances and O.C.G.A. § 41-2-7, et. seq., are also applicable 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 the Madison County Health Department, Health Officer or Building Inspector that such property is a health or safety hazard shall constitute pima-facie evidence that said property is in violation of the Article V and O.C.G.A. § 41-2-7, et. seq.

Section 14-181. Enforcement Provisions and Procedures.

(a) It is the duty of the owner of every dwelling, building, structure, or property within the unincorporated area of Madison County to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within Madison County, 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) The Madison County Building Inspector and Code Enforcement Officer are hereby designated as public officers each of whom is appointed to exercise the powers prescribed by this Article V of Chapter 14 of the Madison County Code of Ordinances and O.C.G.A. § 41-2-7, et. seq.

(c) Whenever a request is filed with the public officer by a public authority or by at least five residents of the unincorporated area of Madison County charging that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the interested parties for such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the interested parties; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the interested parties that a hearing will be held before 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 Madison County. Such hearing shall be held not less than 15 days nor more than 45 days after the filing of said complaint in the proper court. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing.

(d) 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 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, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, 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 the said 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.

For purposes hereof, 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 Georgia appraiser classification as provided in Chapter 39A of Title 43 of the Official Code of Georgia, 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 Madison County.

(e) 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. 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 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."

(f) 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.

(g) The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the Madison County Tax Commissioner and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.

(h) The public officer may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or 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 Article V of Chapter 14 of the Madison County Code of Ordinances and O.C.G.A. § 41-2-7, et. seq.

Section 14-182. Standards for Determining Unfitness for Habitation.

(a) The public officer may determine 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 such county or municipality. Such conditions may include the following (without limiting the generality of the foregoing):

- (1) Defects therein increasing the hazards of fire, accidents, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation;
- (4) Disrepair;
- (5) Structural defects; and
- (6) Uncleanliness, including but not limited to dangerous or injurious accumulation of solid waste in violation of Section 54-35 of the Madison County Code of Ordinances.

(b) The public officer may determine that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

Section 14-183. Public Officer's Powers of Enforcement.

The public officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Article V of Chapter 14 of the Madison County Code of Ordinances and O.C.G.A. § 41-2-7, et. seq., including the following powers in addition to others granted in O.C.G.A. §§ 41-2-7 through 41-2-10 and 41-2-12 through 41-2-17:

- (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 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 purpose of making examinations; provided, however, that such entries shall be made in such 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/she deems necessary to carry out the purposes of the ordinances; and
- (5) To delegate any of his/her functions and powers under the ordinance to such officers and agents as he/she may designate."

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The provisions of this ordinance shall be effective upon approval by the Madison County Board of Commissioners.

Approved by the Madison County Board of Commissioners the 24th day of May, 2021.

BOARD OF COMMISSIONERS MADISON COUNTY, GEORGIA

By: 
Hon. Todd Higdon, Chairman, Madison County Board of Commissioners

Attest: 
Rhonda S. Wooten, Clerk, Madison County Board of Commissioners