

ORDINANCE NO. 2015-003

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PATTERSON, GEORGIA; TO ADOPT AN ORDINANCE PURSUANT TO O.C.G.A § 41-2-7 THROUGH § 41-2-17, INCLUSIVE; TO PROVIDE FOR THE POWER TO REPAIR, CLOSE OR DEMOLISH UNFIT BUILDINGS OR STRUCTURES, AND TO ADDRESS HEALTH HAZARDS ON PRIVATE PROPERTY; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR RENUMBERING OR RELETTERING; TO PROVIDE FOR SEVERABILITY; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia General Assembly adopted O.C.G.A. 41-2-7 through 41-2-17, inclusive, authorizing a municipality to adopt ordinances relating to the dwellings, buildings, or structures within such municipality which are unfit for human habitation or commercial, industrial, or business uses and not in compliance with applicable codes, which are vacant and being used in connection with the commission of drug crimes, or which constitute an endangerment to the public health or safety as a result of unsanitary or unsafe conditions; and

WHEREAS, the Council of the City of Patterson, Georgia hereby finds and declares that there exists in the City of Patterson dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial or business occupancy or uses due to dilapidation and non-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 the City of Patterson, or vacant, dilapidated buildings, dwellings or structures in which drug crimes are being committed;

WHEREAS, the Council of the City of Patterson has determined that an ordinance providing for the power to repair, close, or demolish unfit buildings or structures, and to address health hazards on private property, is necessary and appropriate and would be beneficial to the citizens of Patterson as it would promote the general health, safety, and welfare of the of the citizens of Patterson;

NOW THEREFORE, THE COUNCIL OF THE CITY OF PATTERSON HEREBY ORDAINS:

SECTION ONE. The Code of the City of Patterson is hereby amended by adding the following:

Sec. ____-01. Findings.

- 1) The Council of the City of Patterson, Georgia hereby finds and declares that there exists in the City of Patterson dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial or business occupancy or uses due to dilapidation and non-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 the City of Patterson, or vacant, dilapidated buildings, dwellings or structures in which drug crimes are being committed.
- 2) All the provisions of O.C.G.A. § 41-2-7 through § 41-2-17, including method and procedure, 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 building inspector that such property is a health or safety hazard shall constitute prima-facie evidence that said property is in violation of this section and O.C.G.A. § 41-2-7 through § 41-2-17.

Sec. ___-02. Duty of Owners.

It is the duty of the owner of every dwelling, building, structure, or property within the City of Patterson to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the City of Patterson, 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.

Sec. ___-03. Definitions.

The definitions set forth in O.C.G.A. § 41-2-8 are hereby adopted and incorporated herein by reference, including, without limitation, all acts amendatory thereto and supplementary thereof.

Sec. ___-04. Designation of "Public Officer."

The Chief of Police of the Patterson, Georgia Police Department, or his/her designee, is the "public officer" designated and appointed to exercise the powers prescribed by this Article. 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 O.C.G.A. § 41-2-7 through § 41-2-17, including the following powers in addition to others granted in the aforementioned Code Sections:

- a) To investigate the dwelling conditions in the municipality 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;
- b) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- c) 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;
- d) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of the ordinances; and
- e) To delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

Sec. ___-05. Standards for Determining Unfitness for Habitation.

- 1) 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 municipality. Such conditions may include the following (without limiting the generality of the foregoing):
 - a) Defects therein increasing the hazards of fire, accidents, or other calamities;
 - b) Lack of adequate ventilation, light, or sanitary facilities;
 - c) Dilapidation;
 - d) Disrepair;
 - e) Structural defects; and
 - f) Uncleanliness.
- 2) 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 report of a law enforcement agency and evidence of drug crimes being committed.

Sec. ____-06. Complaints; Notice and Hearing; Order to Abate.

- 1) Whenever a request is filed with the public officer by a public authority or by at least five (5) residents of the municipality 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 the municipal court of the City of Patterson at a date and time certain and at a place within the municipality 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 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.
- 2) If after notice and hearing as provided herein, the court determines that any 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 council 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 owner and any interested parties that have answered the complaint or appeared at the hearing an order:
 - a) If the repair, alternation, 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 council of drug crimes; or
 - b) 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 order, to demolish and remove such dwelling, building, or structure and all debris from the property.
- 3) 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, 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 courts determination. The present value of the structure and the costs of the 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 (O.C.G.A.), qualified building contractors, or qualified building inspectors without actual testimony presented. Costs or 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.

Sec. ___-07. Service of Complaints and Orders.

- 1) Complaints issued by a public officer pursuant to this code section shall be served in the following manner. In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, structure, or property within three business days of filing of the complaint and at least ten days prior to the date of the hearing. A copy of the complaint and summons shall be served in one of the following ways:
 - a) Personal service upon each owner and party in interest if such parties are residents of the county. Service shall be perfected at least ten days prior to the date of the hearing. Service may be made by the public officer or any person designated by the public officer or by any law enforcement officer of the City of Patterson or Pierce County, and a return or service, filed with the clerk of the appropriate court, shall be deemed sufficient proof that service was perfected;
 - b) At least 14 days prior to the date of the hearing, the public officer shall mail copies of the complaint by certified mail or statutory overnight delivery, return receipt requested, to all interested parties whose identities and addresses 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;
 - c) 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.
- 2) 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.
- 3) 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. ___-08. Failure to Comply with Order.

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."

Sec. ___-09. Salvage.

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 City of Patterson 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.

Sec. ___-10. Lien against Property.

The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the county tax commissioner or municipal tax collector or city revenue officer, 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.

Sec. ___-11. When Lien Shall Attach.

- 1) The lien provided for in Sec. ___-10 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 subsection (c) of O.C.G.A. § 41-2-12. 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.
- 2) 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 person responsible for collecting or receiving municipal property and ad valorem taxes 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 person who is responsible or whose duties include the collection of municipal taxes, 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; provided, however, that the limitation of O.C.G.A. § 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. A county tax commissioner shall collect and enforce municipal liens imposed pursuant to this chapter in accordance with O.C.G.A. § 48-5-359.1. The person who collects any costs, fees, and expenses owed shall remit the amount collected to the governing authority of the City of Patterson.
- 3) Enforcement of liens pursuant to this Code section may be initiated at any time following receipt by the person responsible for collecting or receiving municipal property and ad valorem taxes 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.
- 4) The redemption amount in any enforcement proceeding pursuant to this Code section shall be the full amount of the costs as finally determined in accordance with this Code section together with interest, penalties, and costs incurred by the governing authority, county tax commissioner, municipal tax collector, or city revenue officer 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.
- 5) The City may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the municipality 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.

Sec. ___-12. Issuance of Citation.

In addition to the procedures and remedies in this chapter, the public officer may issue citations for violation 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 Code section.

Sec. ___-13. Appropriations; grants; donations.

The City of Patterson shall be authorized to make such appropriations from its revenues as it may deem necessary and may accept and apply grants or donations to assist it in carrying out the provisions of ordinances adopted in connection with the exercise of the powers granted under Chapter 2 of Title 41 of the O.C.G.A.

Sec. ___-14. Powers supplemental to other laws and ordinances.

Nothing contained herein shall be construed to abrogate or impair the powers of the courts or of any department of the City of Patterson to enforce any provisions of its local enabling Act, its charter, or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred hereunder shall be in addition to and supplemental to the powers conferred by any other law.

SECTION TWO. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE. All articles, sections and paragraph titles or captions contained in this ordinance are for convenience only and shall not be deemed to be a part of the context nor affect the interpretation of this ordinance.

SECTION FOUR. If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

SECTION FIVE. This ordinance shall become effective upon final approval after second reading by the City Council of the City of Patterson, Georgia.

SECTION SIX. It is the intent of the City Council of the City of Patterson, Georgia, and it is hereby enacted that the provisions of this ordinance shall become and be made a part of the Code of ordinances of the City of Patterson, Georgia, and that sections of this ordinance may be renumbered or relettered to accomplish such intentions.

ADOPTED this 9th day of October, 2015 by the affirmative vote of a majority of the councilmembers present at an official meeting of the Council of the City of Patterson.

ATTEST:

PATTERSON CITY COUNCIL

BY:


RAY CUNNINGHAM (City Clerk)


HON. GEORGE-DENISON, JR. (Mayor)

Date of 1st Reading: 09-11-2015
Date of 2nd Reading and Approval: 10-09-2015