

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE OF ROCKDALE COUNTY, GEORGIA FOR THE PURPOSE OF BRINGING THE UDO INTO COMPLIANCE WITH THE ZONING PROCEDURES LAW AS CONCERNS MULTIFAMILY HOUSING; TO PROVIDE FOR EXTENSIVE PUBLIC NOTICE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the State of Georgia has adopted amendments to the Zoning Procedures Law (ZPL) based on H.B. 1405 to clarify and address various procedural issues; and

WHEREAS, Rockdale County seeks to comply with the amended ZPL by adopting appropriate amendments to the Unified Development Ordinance (UDO), as amended; and

WHEREAS, the amended ZPL provides for additional public notice and public hearing procedures as amendments to the UDO that revise single family residential classifications and definitions to authorize multifamily residential construction in single family residential districts; and

WHEREAS, Sec. 202-1. *Purpose* of the UDO establishes promotion of the health, safety, morals, convenience, order, prosperity and general welfare of the county as a significant public policy.

NOW, THEREFORE, be it ordained by the Board of Commissioners of Rockdale County, Georgia, and by the authority of same, as follows:

Section I

The following terms shall be inserted into Sec. 106-1. - Definitions of the UDO to read as follows:

(1) 'Local government' means any county or municipality, which exercises zoning power within its territorial boundaries.

(1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency appointed by the Rockdale County board of commissioners to exercise delegated, quasi-judicial zoning powers including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, administrative permits, and other similar permits not enumerated herein as zoning decisions, pursuant to standards for the exercise of such quasi-judicial authority adopted by the board of commissioners.

(1.2) 'Quasi-judicial decision' means a final administrative decision by an appointed quasi-judicial officer, board, or agency as concerns appeals of administrative decisions by such officers, boards, or agencies and a final decision as concerns applications for variances from the standards of the UDO, approval or denial of administrative permits and other similar permits not enumerated herein as a zoning decision.

(2) 'Territorial boundaries' means, in the case of counties, the unincorporated areas thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case of municipalities, the area lying within the corporate limits thereof except any area defined in paragraph (5.1) of Code Section 36-70-2.

(3) 'Zoning' means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

(4) 'Zoning decision' means final legislative action by a local government which results in:

(A) The adoption or repeal of a zoning ordinance;

(B) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

(C) The adoption or denial of an amendment to a zoning ordinance to rezone property from one zoning classification to another;

(D) The adoption or denial of an amendment to a zoning ordinance by a municipal local government to zone property to be annexed into the municipality; or

(E) The grant or denial of a permit relating to a special use of property;

(F) The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs (C) or (E) of this paragraph.

(5) 'Zoning ordinance' means an ordinance or resolution of a local government establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein.

Section II

Sec. 238-4. – Amendments, subsection (d) Procedures for review of applications, paragraph (6) Public hearing shall be amended as follows: “Upon notification of the completed application for an amendment to the official zoning map, an amendment to the UDO, certain variances or a special use permit are proposed that relates to or will allow establishment of any multifamily dwelling in an R-1 single family residential district, a public hearing on the proposed action shall be held by the Conyers-Rockdale County Planning Commission. The public hearing required by this subsection shall be held a minimum of six (6) months

and not more than nine (9) months prior to the date of final action on the zoning decision and shall be in addition to other public hearings required under this section.

Section III

Sec. 238-4. – Amendments, subsection (e) Notice of public hearings, a new paragraph (5) shall be added to read as follows:

(5) A local government delegating decision-making power to a quasi-judicial officer, board, or agency shall provide for a hearing on each proposed action described in paragraph (1.1) of Code Section 36-66-3 of the ZPL and in paragraph (1.2) of Section I of this ordinance. Notice of such hearing shall be provided a minimum of thirty (30) days prior to the quasi-judicial hearing, with such notice being made as provided in subparagraph b. of Section IV and with additional notice being mailed to the owner of the property that is the subject of the proposed action.

a. The department of planning and development shall publish a notice of the time, location and date of such hearing and shall place the proposed action on the agenda of a regular meeting for a public hearing in accordance with the requirements of the UDO.

b. If a zoning decision of Rockdale County is for the rezoning of property and the rezoning is initiated by a party other than Rockdale County, then the additional public notice as below shall be given:

i. The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

ii. A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the hearing; and

iii. The department shall publish such notice in a newspaper of general circulation within the county a minimum of 15 days and not more than 45 days prior to the date of the hearing. Such notice shall be a minimum of six column inches in size and shall not be located in the classified advertising section of the newspaper.

Section IV

Sec. 238-4. – Amendments, subsection (e) Notice of public hearings, a new paragraph (6) shall be added to read as follows:

“(6) Notwithstanding any other provisions of this ordinance to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single family residential zoning, such zoning decision shall be adopted in the following manner:”

a. The zoning decision shall be adopted at two (2) regular meetings of the Rockdale County Board of Commissioners making the zoning decision, during a period of not less than twenty-one (21) days apart; and

b. Prior to the first meeting provided for in paragraph a. of this subsection, a minimum of two (2) public hearings shall be held on the proposed action. Further, a minimum of one (1) of the public hearings shall be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under paragraph (5) of this Code Sec. 238-4. – Amendments, subsection (e) Notice of public hearings. The department shall give notice of such hearing by:

(i) Posting notice on each affected premises in the manner prescribed by subsection (b) of this Code Section; provided, however, that when more than five hundred (500) parcels are affected, in which case posting notice shall be required every five hundred (500) feet along the street frontage of the affected premises; and

(ii) Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of each hearing a minimum of fifteen (15) days and not more than forty-five (45) days prior to the date of the hearing.

(iii) Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of Rockdale County and in the office of the clerk of the superior court of Rockdale County of the legal situs of Rockdale County for the purpose of examination and inspection by the public. A copy of the proposed amendment shall be available to the public at no cost upon written request.

(iv) The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of Rockdale County or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of Rockdale County to multifamily residential uses of property.

(v) This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

Section V

Sec. 238-4 Amendments, subsection (i) Action by the board of commissioners, a new paragraph (5) Review of the exercise of zoning, administrative, or quasi-judicial powers shall be added to read as follows:

(5) To ensure the public is afforded due process in an orderly manner to petition the courts for review of the exercise of zoning, administrative, or quasi-judicial powers by Rockdale County, as guaranteed by Article I, Section I, Paragraphs IX and XII of the Constitution, the General Assembly, pursuant to its authority under Article VI, Section IV, Paragraph I of the Constitution, provides the following mechanism by which each of the powers described in this ordinance may be reviewed by the Superior Court of Rockdale County:

- a. Zoning decisions as described in this ordinance being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning on a subject property or the validity of conditions or an interim zoning category other than what was requested in Superior Court pursuant to its original jurisdiction over declaratory judgments pursuant to Chapter 4 of Title 9 and equity jurisdiction under Title 23. Such challenges shall be by way of a de novo review by the Superior Court wherein such review brings up the whole record from Rockdale County and all competent evidence shall be admissible in the trial thereof, whether adduced in a local government process or not and employing the presumption that a governmental zoning decision is valid and can be overcome substantively by a petitioner showing by clear and convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to public health, safety, morality, or general welfare; or
- b. Quasi-judicial decisions as described in this chapter and zoning decisions under subparagraph (E) of paragraph (4) of Code Section 36-66-3 shall be subject to appellate review by Superior Court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of a petition for such review as provided for in Title 5. Such matters shall be reviewed on the record which shall be brought to Superior Court as provided in Title 5.
- c. All such challenges or appeals shall be brought within 30 days of the written decision of the challenged or appealed action.
- d. To ensure that the citizens of Rockdale County are not unnecessarily burdened by the review process as a mechanism of appeal, Rockdale County shall designate by ordinance or resolution the following officers and officials:
 - i. The officer of the quasi-judicial board or agency who shall have authority, without additional board or agency action, to approve or issue any form or certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the regular offices of Rockdale County; and
 - ii. The elected official or his or her designee who shall have authority to accept service and upon whom service of an appeal of a quasi-judicial decision may be effected or accepted on behalf of Rockdale County during normal business hours at the regular offices Rockdale County.
- e. An appeal or challenge by an opponent filed pursuant to this chapter shall stay all legal proceedings in furtherance of the action appealed from or challenged, unless a Rockdale County, officer, board, or

agency from which or from whom the appeal or challenge is taken certifies that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such actions, the applicant for the zoning decision or the quasi-judicial decision shall be a necessary party and shall be named as a defendant in the action and served in accordance with the requirements of Title 5 or Title 9, as appropriate.

f. The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of Rockdale County or zoning decisions that result in the rezoning of all property zoned for single family residential uses within the territorial boundaries of Rockdale County to multifamily residential uses of property.

g. This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

Section VI

Sec. 238-4. – Amendments, subsection (f) Rules of procedure for public hearings, paragraph (1) Public hearing procedures for the planning commission shall be added to read as follows:

(1) Public hearing procedures for the planning commission. For each matter concerning the amendment of the comprehensive plan, the official zoning map, the text of the UDO, decisions on applications for certain variances, or other similar permits enumerated herein as a zoning decision or for any matter concerning issuance of a special use permit or other matter on the agenda that requires a public hearing and a vote of the planning commission, the procedures of Sec. 238-4. – Amendments, subsection (f) Rules of procedure for public hearings, paragraph (1) Public hearing procedures for the planning commission of the UDO shall be followed.

Sec. 238-4. – Amendments, subsection (f) Rules of procedure for public hearings, paragraph (2) Public hearing procedures for the board of commissioners shall be added to read as follows:

(2) Public hearing procedures for the board of commissioners. For each matter concerning the amendment of the comprehensive plan, the official zoning map, the text of the UDO, decisions on applications for certain variances, or other similar permits enumerated herein as a zoning decision or for any matter concerning issuance of a special use permit or other matter on the agenda that requires a public hearing and a vote of the board of commissioners, the procedures in Sec. 238-4. – Amendments, subsection (f) Rules of procedure for public hearings, paragraph (2) Public hearing procedures for the board of commissioners of the UDO shall be followed.”

Section VII

Sec. 238-8. – Appeals, subsection (c) Public hearings. The board of adjustment shall hear appeals and variance applications referred to it within 45 days of receiving the complete and sufficient application for appeal and give notice to the appellant and official(s) subject to the appeal. The secretary shall issue proper public notification of the public hearing. The public notification shall indicate the place, date and time of

the hearings and shall be posted and advertised per O.C.G.A. § 50-14-1 et seq., the Georgia Open Meetings Act.

Sec. 238-8. – Appeals, subsection (d) Decisions of the board. Following consideration of all testimony, documentary evidence and matters of record, the board of adjustment shall make a determination on each appeal. The board shall decide the appeal within a reasonable time but, in no event, more than 45 days from the date of the initial hearing. An appeal may be sustained only upon an expressed finding by the board of adjustment that the administrative determination of the quasi-judicial officer, board, or agency was based on an erroneous finding of a material fact, or that the officer, board, or agency acted in an arbitrary manner. The board shall also consider the following standards of review when deciding an appeal:

- a. The degree to which the granting of the appeal, overturning the action by the quasi-judicial officer, board, or agency would adversely impact adjacent and nearby property as opposed to the public benefit realized in denial of the appeal.
- b. Whether the granting of the appeal would further the purposes of the zoning district to which the subject of the appeal is related.
- c. Whether the granting of the appeal would cause significant adverse environmental impacts.
- d. Whether the granting of the appeal would allow a use or manner of operation otherwise in compliance with all other standards of the zoning district which may be related to the appeal.
- e. Whether the granting of the appeal is consistent with the established record of decision concerning identical or similar appeals.

Section VIII

Sec. 238-9. – Variances shall be decided and procedures applicable to these quasi-judicial decisions shall be as provided in this Sec. 238-9. This shall specifically include subsection (h) Standards for granting variances.

Section IX

Sec. 238-1. - Administrative bodies shall be amended to read as follows:

- (a) The provisions of the UDO shall be administered by the department, in association with the Conyers-Rockdale County Planning Commission (planning commission), the board of adjustment and the board of commissioners of Rockdale County (board of commissioners).
- (b) The authority of quasi-judicial officers, boards, and agencies identified in Section I of this ordinance and appointed by the Rockdale County Board of Commissioners to exercise delegated, quasi-judicial zoning powers, including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, administrative permits or other similar permits not enumerated herein as a zoning decision.

Section X

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This Ordinance shall become effective upon adoption.

This 13th day of June, 2023.

**ROCKDALE COUNTY, GEORGIA
BOARD OF COMMISSIONERS**



Osborn Nesbitt, Sr., Chairman




Sherri L. Washington, Esq., Commissioner
Post I

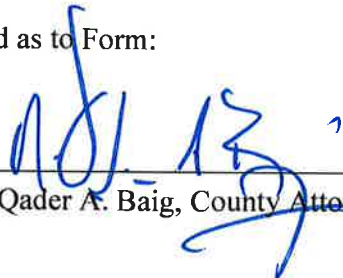


Dr. Doreen Williams, Commissioner Post II

Attest:

By:  (PAP)
Jennifer Rutledge, County Clerk

Approved as to Form:

By: 
M. Qader A. Baig, County Attorney

First May 9, 2023 Reading:

Second June 13, 2023 Reading: