

**CANDLER COUNTY
DISORDERLY CONDUCT ORDINANCE**

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF CANDLER COUNTY SITTING FOR COUNTY PURPOSES AND FOR THE PURPOSE OF ESTABLISHING THE OFFENSE OF DISORDERLY CONDUCT; TO DEFINE, REGULATE, AND PROHIBIT SUCH CONDUCT; TO PROVIDE FOR PUNISHMENT FOR VIOLATIONS OF THE SAME; TO SPECIFY MAXIMUM PUNISHMENT; TO PROVIDE JURISDICTION OVER VIOLATIONS AND PROCEDURE FOR ENFORCEMENT OF SAID ORDINANCE; TO PROVIDE EXCEPTIONS AND FOR OTHER PURPOSES ADOPTED AT THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF CANDLER COUNTY HELD ON THE 4TH DAY OF OCTOBER, 2005.

WHEREAS, the Board of Commissioners, for the purpose of protecting and preserving the public health, safety, and welfare, is authorized to adopt Ordinances for the governing and policing of the unincorporated areas of the County; and

WHEREAS, the Board of Commissioners is authorized to define, regulate and prohibit any act, practice, conduct, or use of property which is detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, convenience, or general welfare of the inhabitants of Candler County; and

WHEREAS, the Sheriff of Candler County has requested the adoption of a Disorderly Conduct Ordinance; and

WHEREAS, the Board of Commissioners deems it to be in the best interest of the citizens of Candler County that such an Ordinance be adopted.

NOW, THEREFORE BE IT ORDAINED AND IT HEREBY IS ORDAINED, as provided in O.C.G.A. Sections 36-1-20, 15-10-60 et. seq. and 16-11-39 and by virtue of the authority vested in the Board of Commissioners by law, as follows:

SECTION I. DISORDERLY CONDUCT DEFINED

(A) A person commits the offense of Disorderly Conduct when such person commits any of the following:

(1) Acts in a violent or tumultuous manner toward another person whereby such person is placed in reasonable fear of the safety of such person's life, limb, or health;

(2) Acts in a violent or tumultuous manner toward another person whereby the property of such person is placed in danger of being damaged or destroyed;

(3) Without provocation, uses to or of another person in such other person's presence, opprobrious or abusive words which by their very utterance tend to incite to an immediate breach of the peace, that is to say words which, as a matter of common knowledge and under ordinary circumstances will, when used to or of another person in such other person's presence, naturally tend to provoke violent resentment, that is, words commonly called "fighting words;"

- (4) Without provocation, uses obscene and vulgar or profane language in the presence of or by telephone to a person under the age of fourteen (14) years which threatens an immediate breach of the peace;
- (5) Causes, provokes, or engages in any fight, brawl, or riotous conduct so as to endanger the life, limb, health, or property of another;
- (6) Interferes with another's pursuit of a lawful occupation by acts of violence;
- (7) Obstructs, either singularly or together with other persons the flow of the vehicular or pedestrian traffic, and refuses to clear such public way when ordered to do so by the Sheriff or other lawful authority known to be such;
- (8) Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his own safety or the safety of others;
- (9) Resists or obstructs the performance of duties by any authorized official of Candler County known to be such;
- (10) Damages, befouls, or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition;

(11) Makes, or causes to be made, any loud, boisterous, or unreasonable noise or disturbance to the annoyance of any other persons nearby or near to any public highway, road, street, lane, alley, park, square, or common whereby the public peace is broken or disturbed.

SECTION II. JURISDICTION

Jurisdiction over violations of this Ordinance shall be in the Magistrate Court of Candler County, and may be tried upon citation or upon accusation. Jurisdiction over violations of this ordinance by persons under the age of 17 years shall be in the Juvenile Court of Candler County and may be tried upon citation or as otherwise provided by law.

SECTION III. ENFORCEMENT

(A) A deputy sheriff or other authorized law enforcement officer shall be authorized to confiscate at the time of the occurrence any instrument (such as a boom box, stereo, or radio) which forms the basis of any complaint hereunder and hold the same as evidence of the alleged violation until said matter is adjudicated.

(B) COMMENCEMENT OF PROSECUTION BY CITATION

(1) Prosecutions for violation of this Ordinance upon citation shall be commenced by the completion, signing, and service of a citation by a deputy sheriff or other authorized officer. The original of the citation

shall be personally served upon the accused; a copy shall be promptly filed with the Court.

(2) Each citation shall state the time and place at which the accused is to appear for trial, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by a deputy sheriff or other authorized officer who completes and serves it.

(3) Any Defendant who fails to appear for trial shall thereafter be arrested on the warrant of the Magistrate and required to post a bond for his or her future appearance.

(4) The District Attorney, County Attorney, or another attorney designated by Candler County may act as prosecuting attorney for violations of this Ordinance.

(C) CASH BONDS

(1) The Chief Magistrate shall, by written Order, establish the amount of a cash bond for the personal appearance in Court of any person charged with a violation of this Ordinance.

(2) The Magistrate shall designate the officer or officers authorized to accept cash bonds.

(3) In no event shall any officer or agent who is authorized to issue citations, be authorized to accept a cash bond at the time of or in conjunction with the issuance of any citation.

(4) The officer accepting the cash bond shall issue a receipt for the bond of the person charged with a violation.

(5) Any person who has a case by citation but has not been arrested may, but shall not be required to, give a cash bond for his personal appearance in Court for trial. If a person who has given a cash bond fails to appear for trial, failure to appear shall be deemed to constitute a guilty plea and such cash bond shall be forfeited upon the call of the case for trial. It shall not be necessary for the County to take any further action to forfeit the cash bond. Forfeiture of a cash bond shall be deemed to constitute imposition and payment of a fine, and shall be a bar to a subsequent prosecution of the accused for the same violation of this Ordinance. The Court may, however, in any case enter an order pursuant to which a bond forfeiture shall not be deemed to constitute imposition of a sentence, and subsequent prosecution shall not be barred; and in any such case, the amount of the bond forfeited shall be credited against any fine subsequently imposed.

(6) It shall be the duty of the Clerk of the Magistrate Court to furnish the officer or officers authorized under the Order with a book of blank receipts consecutively numbered in triplicate and readily distinguishable and identifiable. The receipts shall be completed by the officers when accepting a cash bond so as to show the name of the person cited or arrested, the date of citation or arrest, nature of the offense, amount of cash bond given, and the name of the receiving officer. The receiving officer shall deliver a copy of the receipt to the person cited or arrested at the time the cash bond is given, and shall file the original, together with the cash bond, with the Clerk of the Magistrate Court not later than the next succeeding business day following the date of issuance of the receipt.

SECTION IV. PUNISHMENT

(A) Any person who violates this Ordinance may be punished by a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment for sixty (60) days or both.

(B) In lieu of, or in addition to, any fine or incarceration, community service may be ordered by the court as punishment for a violation of this ordinance. Said community service shall be not less than 20 hours but not more than 250

hours, which must be performed within one year from the date of conviction for a violation of this ordinance.

(C) Any person placed on community service or otherwise placed on probation for a violation of this ordinance shall pay such supervisory fees as may be authorized by law.

(D) In addition to any other fine and fees, the court is hereby authorized to assess a supervision fee in the amount of One Hundred (\$100) Dollars.

SECTION V. EXECUTIONS UPON UNPAID FINES

(A) Execution may issue immediately upon any fine imposed by the Court and not immediately paid.

(B) The Sheriff of Candler County shall receive and house all persons sentenced to confinement for contempt or arrested or sentenced to confinement for violation of said Ordinance.

SECTION VI. CERTIORARI TO SUPERIOR COURT

Review of convictions shall be by Certiorari to the Superior Court, as provided by law.


SECTION VII. SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as

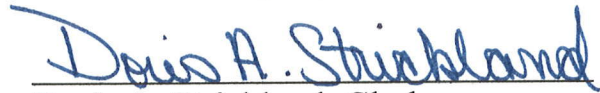
applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Commissioner to provide for separable and devisable parts and he does hereby readopt any and all parts hereof as may not be held invalid for any reason.

SO ADOPTED this 4th day of October, 2004.

CANDLER COUNTY, GEORGIA



W. Lamar Samples, Chairman



Attest: Doris A. Strickland, Clerk