

CANDLER COUNTY NUISANCE ABATEMENT ORDINANCE

AN ORDINANCE OF THE CANDLER COUNTY BOARD OF COMMISSIONERS SITTING FOR COUNTY PURPOSES AND FOR THE PURPOSE OF PROVIDING FOR THE REPAIR, CLOSING, OR DEMOLITION OF STRUCTURES WHICH ARE UNFIT FOR HUMAN OCCUPATION OR FOR COMMERCIAL, INDUSTRIAL, OR BUSINESS OCCUPANCY OR CONSTITUTE A GENERAL NUISANCE TO THE CITIZENS OF CANDLER COUNTY; TO PROHIBIT THE USE OF PROPERTY WHICH RENDERS ADJACENT REAL PROPERTY UNSAFE OR INJURIOUS TO HUMAN HABITATION; TO PROVIDE FOR PROCEDURES AND REQUIREMENTS TO CORRECT SUCH SITUATIONS; TO PROVIDE FOR ENFORCEMENT; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES; ADOPTED AT THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF CANDLER COUNTY ON THE ~~11~~ DAY OF JUNE, 2005.

WHEREAS, there exists or may from time to time exist, upon private property within the unincorporated area of Candler County, buildings, structures, or property that are unfit, present a health hazard, are unsafe or constitute a general nuisance to the citizens of Candler County; and

WHEREAS, Candler County is empowered by law, pursuant to O.C.G.A. § 41-2-7, et seq. to cause to be repaired, closed or demolished unsafe buildings or structures and to cause to be cleaned up property where an accumulation of trash, junk, filth or other unsanitary or unsafe conditions creates a public nuisance; and

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

NOW THEREFORE BE IT ORDAINED AND IT HEREBY IS ORDAINED, by virtue of the authority vested in the Board of Commissioners by law as follows:

SECTION I. SHORT TITLE

This Ordinance shall be known as and cited as "The Candler County Nuisance Abatement Ordinance."

SECTION II. PURPOSE

It is found and declared that in the unincorporated area of Candler County there is the

existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and are inimical to the welfare and are dangerous and injurious to the health, safety, and welfare of the people of the county; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures. It is further found and declared that in the unincorporated area of this county where there is in existence conditions or uses of real estate which render adjacent real estate unsafe or inimical to safe human habitation, which such use is dangerous and injurious to the health, safety, and welfare of the people of this county and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. **The Board of Commissioners declares that such conditions or uses constitute public nuisances that are subject to abatement.**

Therefore, it is the purpose of this Ordinance that whenever the county finds that there exist in the county dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and defects increasing the hazards of fire, accidents, or other calamities; lack of adequate ventilation, light, or sanitary facilities; or other conditions 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 this county, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, the county may exercise its police power to repair, close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided in this Ordinance and Code Sections 41-2-7 through 41-2-17 of the Official Code of Georgia Annotated.

All the provisions of this Ordinance, including method and procedure, shall also be applied to private property where an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions shall create a public health hazard or general nuisance to the persons residing in the vicinity. A finding by any governmental health department, health officer, building inspector, the code enforcement officer, or other legally constituted law enforcement personnel shall constitute prima-facia evidence that said property is in violation of this Ordinance and Code Sections 41-2-7 through 41-2-17 of the Official Code of Georgia Annotated.

SECTION III. SCOPE AND APPLICABILITY

(a) Authority and scope: This Ordinance is enacted pursuant to the provisions of Title 41, Chapter 2, Sections 7 through 17, as amended, of the Official Code of Georgia Annotated (O.C.G.A.) and referenced herein as the "statute". O.C.G.A. §41-2-7 specifies the scope and purpose of this Ordinance. All powers and authorities granted to public officers and public authorities by the statute are hereby incorporated herein by reference so as to be assumed, delegated and granted pursuant to this Ordinance.

(b) Applicability: The provisions of this Ordinance shall apply to both residential and non-residential property whether being occupied or not and whether being developed or not, within the unincorporated area of Candler County and the inactive municipalities of Candler County, pursuant to Georgia law.

SECTION IV. DEFINITIONS

As used in this Ordinance, the following words, terms and definitions shall apply:

(a) "**Closing**" means securing and causing a dwelling, building, or structure to be vacated.

(b) "**Code Enforcement Officer**" means the officer or officers, including the county administrator or his designee and other legally constituted law enforcement personnel, who are authorized to exercise the powers prescribed by this Ordinance relating to the inspection for violations of the Ordinance's provisions and the issuance of complaints upon determining that a violation has occurred.

(c) "**Drug crime**" means an act which is a violation of Article 2 of Chapter 13 of Title 16, known as the "Georgia Controlled Substances Act."

(d) "**Dwelling, building, structure, or property**" means any building or structure or property, or part thereof, used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. The term "dwelling, building, structure, or property" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other

farm products.

(e) "**Owner**" means the holder of the title in fee simple and every mortgagee of record.

(f) "**Parties in interest**" means persons in possession of said property and all individuals, associations, and corporations who have interest of record in the county where the property is located in a dwelling, building, or structure, including without limitation, executors, administrators, guardians, and trustees.

(g) "**Person**" shall mean any natural person, corporation, partnership (general or limited), limited liability company, estate, trust or other entity or artificial person, or combination thereof.

(h) "**Public authority**" means any housing authority 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.

(i) "**Repair**" means closing a dwelling, building, or structure or 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.

(j) "**Undesirable Vegetation**" means plants, which due to natural growth characteristics constitute a negative effect on public safety, public health or public welfare by promoting rodents or potentially dangerous wild animals, infestation of mosquitoes, fleas, insects or other vermin.

SECTION V. AUTHORITY AND POWERS OF CODE ENFORCEMENT OFFICER AND CANDLER COUNTY BOARD OF COMMISSIONERS

(a) The Code Enforcement Officer including the county administrator or his designee and other legally constituted law enforcement personnel are hereby authorized, pursuant to O.C.G.A. §41-2-11, to exercise such powers as may be necessary to carry out and effectuate the purpose and provisions of this ordinance, including but not limited to the following powers:

(1) To investigate the conditions in Candler County in order to determine which dwellings, buildings, structures, or properties 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 issue Complaints for violations of the provisions of this Ordinance;
- (3) To enter upon premises for the purposes of making examinations; provided, however, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession; and
- (4) To delegate any of his functions and powers under the Ordinance to such officers and agents as he may designate.

(b) The Candler County Board of Commissioners are hereby authorized, pursuant to O.C.G.A. §41-2-11, to exercise such powers as may be necessary to carry out and effectuate the purpose and provisions of this ordinance, including but not limited to the following powers:

- (1) To enter upon premises for the purposes of making examinations; provided, however, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession;
- (2) To conduct hearings arising from Complaints issued by the Candler County Code Enforcement Officer and/or citizen Complaints;
- (3) To administer oaths and affirmations, to examine witnesses, and to receive evidence;
- (4) To make a final determination, under this Ordinance, that a dwelling, building, structure, or property is unfit for human habitation or is unfit for its current commercial, industrial, or business use; or is vacant and being used in connection with the commission of drug crimes; or that property has such an accumulation of weeds, trash, junk, filth, or other unsanitary or unsafe conditions as to constitute a public health hazard or general nuisance to those persons residing in the vicinity; and
- (5) To delegate any of its functions and powers under the Ordinance to such officers and agents as it may designate.

SECTION VI. UNSAFE BUILDING AND STRUCTURE

Any building or structure that has any of the following conditions, such that the life, health, property, or safety of its occupants or the general public are endangered are hereby declared illegal

and shall be abated by repair or rehabilitation or demolition (or qualify for a secured building status in accordance with this Ordinance.) The complaint and inspection of an unsafe building or structure shall be as set forth in Section XIII of this Ordinance. Said conditions are as follows:

(a) Any means of egress or portion thereof which is not of adequate size or which is not arranged to provide a safe path of travel in case of fire or panic.

(b) Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire resistive ratings, which is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.

(c) The stress in any material, member or portion thereof, due to all imposed loads, including dead load, which exceeds the stresses allowed by the Southern Standard Building Code for new buildings.

(d) The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to damage and is less than the minimum requirement established by the Southern Standard Building Code for new buildings.

(e) Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Southern Standard Building Code for new buildings.

(f) The building's structure or portion thereof, for whatever reason, is manifestly unsafe or unsanitary for the purpose for which it is being used.

(g) The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

(h) The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Southern Standard Building Codes, or of another county Ordinance or state law.

(i) The building, structure or portion thereof is in such a condition as to constitute a public nuisance.

(j) The building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise a danger to human life, or, which

in relation to its existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, uncleanness, dilapidation, obsolescence, abandonment, disrepair, structural defects, or lack of adequate ventilation, light or sanitary facilities.

SECTION VII. UNDESIRABLE VEGETATION

It shall be unlawful for the owner and/or occupant of any occupied lot of land in Candler County, or the owner of any unoccupied lot in Candler County, or for any agent or representative of any such occupant or owner, to permit or maintain on such lot any growth of undesirable vegetation. The complaint and inspection of undesirable vegetation shall be as set forth in Section VIII of this Ordinance.

SECTION VIII. COMPLAINT AND INSPECTION

(a) Complaint. Whenever a request is filed with the Code Enforcement Officer by a public authority or by at least five (5) residents of Candler County that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use; or that private property has an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions constituting a public health hazard or a general nuisance to those persons residing in the vicinity; or whenever it appears to the Code Enforcement Officer (on his own motion):

- (1) that any dwelling, building, or structure is unfit for human habitation or
- (2) is unfit for its current commercial, industrial, or business use or
- (3) is vacant, dilapidated, and being used in connection with the commission of drug crimes or
- (4) lacks adequate ventilation, light, or sanitary facilities or
- (5) exhibits other conditions rendering it unsafe or unsanitary or dangerous or detrimental to health, safety and welfare of residents or
- (6) that private property has an accumulation of weeds, trash, junk, filth, and other unsanitary or unsafe conditions constituting a public health hazard or a general nuisance to those persons residing in the vicinity, then, the Code Enforcement Officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and

any parties in interest in such dwelling, building, structure, or property, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Candler County Board of Commissioners at a place within Candler County, fixed not less than ten (10) nor more than thirty (30) days after the serving of said complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Commissioners.

(b) If, after such notice and hearing, the Board of Commissioners determines: that the dwelling, building or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial, or business use or is vacant, dilapidated, and being used in connection with the commission of drug crimes; or that the private property under consideration has an accumulation of weeds, trash, junk, filth, or other unsanitary or unsafe conditions constituting a public health hazard or general nuisance to those person residing in the vicinity, they shall state in writing their findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

1. If the repair, alteration, or improvement of the said dwelling, building, structure, or property can be made at a reasonable cost in relation to the value of the dwelling, building, structure, or property, requiring the owner or parties in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or property so as to render it fit for human habitation or for current commercial, industrial, or business use or to vacate and close the dwelling, building, structure, or property as a human habitation; or for commercial industrial or business use, or

2. If the repair, alteration, or improvement of the said dwelling, building, structure, or property cannot be made at a reasonable cost in relation to the value of the dwelling, building, structure, or property, requiring the owner or parties in interest, within the time specified in the order, to remove or demolish such dwelling, building, structure, or property; provided however, in no event shall Candler County require removal or demolition of any dwelling, building, structure, or property except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half the value of such dwelling, building, structure, or property will have when repaired to

satisfy the minimum requirements of this Ordinance.

(c) Placarding.

When any owner or parties in interest fail to comply with an order to secure, vacate and close, or demolish the dwelling, building, structure, or property, the Board of Commissioners may cause such dwelling, building, structure, or property to be repaired, altered, or improved or to be secured, vacated and closed, or demolished; and the Board of Commissioners may cause to be posted on the main entrance of any building, dwelling, structure or property so closed a placard with the following words:

"This building/structure/property is unfit for human habitation or commercial, industrial or other use. The use or occupation of this building/structure/property for human habitation or for commercial, industrial or other use is prohibited and unlawful."

The placard shall bear the date posted, street number of the building/structure/property involved and the signature of the Chairman of the Board of Commissioners. It shall thereafter be unlawful for such placard to be mutilated or removed or for such building/structure/property to be occupied until the required corrective action is taken.

(d) If the owner fails to comply with any order to remove or demolish the dwelling, building, or structure, the Board of Commissioners may cause such dwelling, building, or structure to be removed or demolished.

SECTION IX. SERVICE OF COMPLAINTS AND ORDERS

(a) In accordance with O.C.G.A.. 41-2-12, as amended, complaints or orders issued under this Ordinance shall, in all cases, be served upon each person in possession of said property, each owner, and each party in interest; and the return of service signed by the public officer or his agent or an affidavit of service executed by any citizen of this state, reciting that a copy of such complaint or orders was served upon each person in possession of said property, each owner, and

each party in interest personally or by leaving such copy at the place of his residence, shall be sufficient evidence as to the service of such person in possession, owner, and party in interest.

(b) If any of the owners and parties in interest shall reside out of the county, service shall be perfected by causing a copy of such complaint or orders to be served upon such party or parties by the sheriff or any lawful deputy of the county of the residence of such party or parties or such service may be made by any citizen; and the return of such sheriff or lawful deputy or the affidavit of such citizen that such party or parties were served either personally or by leaving a copy of the complaint or orders at the residence shall be conclusive as to such service.

(c) Nonresidents of this state shall be served by posting a copy of such complaint or orders in a conspicuous place on premises affected by the complaint or orders. Where the address of such nonresidents is known, a copy of such complaint or orders shall be mailed to them by registered or certified mail.

(d) In the event either the owner or any party in interest is a minor or an insane person or person laboring under disabilities, the guardian or other personal representative of such person shall be served and if such guardian or personal representative resides outside the county or is a nonresident, he shall be served as provided for in subsection (c) of this Code section or this subsection in such cases. If such minor or insane person or person laboring under disabilities has no guardian or personal representative or in the event such minor or insane person lives outside the county or is a nonresident, service shall be perfected by serving such minor or insane person personally or by leaving a copy at the place of his residence which shall be sufficient evidence as to the service of such person or persons; in the case of other persons who live outside of the county or municipality or are nonresidents, service shall be perfected by serving the judge of the probate court of the county wherein such property is located who shall stand in the place of and protect the rights of such minor or insane person or appoint a guardian ad litem for such person.

(e) In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer shall make an affidavit to that effect, then the service of such complaint or order upon such persons shall be made in the same manner as provided in subsection (c) above or service may be perfected upon any person, firm, or corporation holding itself out as an agent for the property

involved.

(f) A copy of such complaint or orders shall also be filed in the proper office or offices for the filing of lis pendens notice in the county in which the dwelling, building, or structure is located and such filing of the complaint or orders shall have the same force and effect as other lis pendens notices provided by law. Any such complaint or orders or an appropriate lis pendens notice may contain a statement to the effect that a lien may arise against the described property and that an itemized statement of such lien is maintained on a lien docket maintained by the clerk of the Commissioner of the county.

(g) Costs. The costs of service pursuant to this Ordinance shall be included in the sums otherwise due under the Ordinance.

SECTION X. **DETERMINATION**

(a) The Board of Commissioners may determine, under this Ordinance, that a dwelling, building, structure, or property is unfit for human habitation or is unfit for its current commercial, industrial, or business use if it finds that conditions exist in such building, dwelling, structure or property which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, structure, or property; of the occupants of neighborhood dwellings, buildings, or structures; or of other residents of Candler County. Such conditions may include, but are not limited to, the following:

- (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;
- (6) Uncleanliness;
- (7) Unsafe buildings;
- (8) Stagnant water on premises;
- (9) The generation of smoke or fumes in sufficient amounts to cause odor or

annoyance to the inhabitants of Candler County;

- (10) Maintaining a dangerous or diseased animal or fowl;
- (11) The external or outdoor storage or use of refrigerators, freezers, stoves, air conditioners, and any other appliances, except for those appliances held in connection with a licensed commercial establishment operated in an appropriately zoned district (if zoning is applicable), or the residential use of one (1) such appliance operated externally by the residents of the premises. All such appliances permitted to be stored externally shall be of the type that does not close or lock automatically.
- (12) Property where an accumulation of trash, junk, filth or other unsanitary and unsafe conditions creates a public nuisance.
- (13) Any other condition constituting a nuisance under state law.

(b) The Board of Commissioners may determine, under existing Ordinances, that a dwelling, building, structure, or property 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 XI. DEMOLITION

No person shall begin demolition until a permit for demolition has been obtained and all utilities have been cut off and capped at the street. The person who has secured the permit shall remove from the property all debris, trash, litter, rubbish, rubble and foundation exposed above the ground level; fill any excavation or other depressions to existing grade with clean dirt containing no more than twenty-five (25%) per cent stone or masonry; and adequately slope and drain all filled areas as determined by the Code Enforcement Officer.

SECTION XII. PROCEDURES AND REQUIREMENTS TO SECURE UNSAFE BUILDINGS OR STRUCTURES

- (a) The owner must apply for a secured building/structure permit, and pay the

required fees and the Code Enforcement Officer shall then inspect said structure.

(b) To qualify for secured building status, the building must be structurally sound, including the walls and roof; otherwise, the secured building permit will be denied.

(c) If the building is structurally sound, non-structural interior portions, including electrical wiring, plumbing, etc., need not comply with appropriate codes while in secured status.

(d) Building or structure must remain vacant while in secured status.

(e) All utilities must remain turned off while in secured status.

(f) Building windows and doors must be secured and covered.

(g) Structures other than buildings, must be repaired, rehabilitated, secured or demolished.

(h) Buildings or structures on secured status shall be placed on a special routing slip for fire and sheriff's departments.

(1) It shall be unlawful for any person to enter or be inside a secured building or structure, except for the owner or duly authorized agent.

(2) It shall be unlawful for any person to remove securing material on a secured building or structure.

(i) A report detailing the Code Enforcement Officer's findings shall be included in the case file. If compliance is not present at the time of the inspection, a secured building/structure permit will not be issued. A complaint will be issued by the Code Enforcement Officer for abatement of the nuisance created by the unsafe building/structure. The complaint and inspection shall be conducted according to the standards and procedures as set forth in Section VIII of this Ordinance.

(j) The building or structure must be annually re-inspected by the Code Enforcement Officer to maintain secured status. If compliance is not present at the time of the re-inspection, the renewal of the secured building/structure permit will be forfeited and a complaint will be issued by the Code Enforcement Officer for abatement of the nuisance created by the unsafe building/structure. The complaint and inspection shall be conducted according to the standards and procedures as set forth in Section VIII of this Ordinance. A secured building/structure permit may be renewed annually only upon payment of the required fee by the owner.

SECTION XIII. REOCCUPYING A SECURED BUILDING OR STRUCTURE

Before a building or structure can be reoccupied:

- (1) The building or structure must be fully returned to compliance with the applicable building codes;
- (2) The building or structure must be reinspected by the Code Enforcement Officer;
- (3) Approval of required plans, if applicable; historic preservation, if applicable; request and purchase of all required building permits, subtrade permits, etc., as may be required, for compliance with construction codes;
- (4) No utilities shall be turned on until full compliance with all construction codes. Temporary service is permitted if necessary for construction work to bring building back in to compliance with the construction codes.

SECTION XIV. RIGHT TO ENTER AND INSPECT

The Board of Commissioners or Code Enforcement Officer or County Administrator, or their designee, or any other person authorized to enforce this Ordinance, and any sworn officer of the Sheriff's Department shall be empowered to enter any property and structure at reasonable times to inspect the condition or work being performed thereon or therein.

SECTION XV. LIEN ON PROPERTY

The cost of vacating, securing, removing, closing, demolishing the structure, and/or the cutting of undesirable vegetation by Candler County shall be a lien for such amount against the real property upon which the cost was incurred. The lien shall attach to the real property upon the payment of all costs of action against the property by Candler County and the filing of an itemized statement of the total sum of said costs in the office of the Clerk of Superior Court on the lien docket(s) maintained for such purposes.

SECTION XVI. PROCEDURE FOR COLLECTION OF AMOUNT DUE ON LIEN

Candler County shall enforce the collection of any amount due on a lien arising under this Ordinance in the following manner:

(a) Amount. The amount of the lien shall be established as follows: The cost of administration to be assessed against properties and service shall be One Hundred Eighty-Five (\$185.00) Dollars. The cost of vacating, securing, removal, closing or demolition shall be the cost paid or incurred by Candler County in effecting action against any property.

(b) Notice of Lien. The owner, and/or parties if they possess a recorded interest in the property, shall be served with a copy of the lien and shall be allowed to satisfy the amount due on such lien by paying to Candler County, within thirty (30) days after the perfection of such lien, a sum of money not less than twenty-five (25%) percent of the total due on such lien, and by further paying the remaining balance due, together with interest at the rate of seven (7%) percent per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed.

(c) Transfer of Property. Should the property upon which such lien is perfected be sold, transferred or conveyed by the owner and/or parties in interest at any time prior to the termination of the three (3) year payment period, the entire balance due on such lien, with earned interest, shall be due and payable to Candler County.

(d) Non-Satisfaction. Should the amount due on the lien, or any portion thereof, be unpaid after it is due, or upon the occurrence of the situation provided for in subsection (c) above, Candler County may enforce the collection of any amount due on such lien in the same manner as provided in O.C.G.A. 48-5-358 and other applicable statutes, which shall be subject to the right of redemption by any person having any right, title or interest in or lien upon said property; all as provided by Article 3 of Chapter 4 of Title 48.

SECTION XVII. EMINENT DOMAIN

Nothing in this Ordinance shall be construed to prevent the owner of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the State of Georgia, or to permit any property to be condemned or destroyed

except in accordance with the police power of this State. Procedures under this Ordinance shall not constitute the exercise of the power of eminent domain by Candler County.

SECTION XVIII. OTHER REMEDIES

This Ordinance shall not be construed to impair or limit in any way the power of the county to define and declare nuisances and to ensure their removal or abatement by summary proceedings or otherwise.

SECTION XIX. RECORDS

The County Administrator shall be the supervisor and custodian of the records on each property against which a complaint is issued, including but not limited to the investigative findings, course of action required, and, if applicable, citations and court findings. Such records shall be public records and made available to any party in interest and copies thereof provided upon the payment of such reasonable cost as may be incurred in duplicating or otherwise providing them. The records shall be preserved for not less than four years after the proceedings and action, if any, regarding the property are concluded.

SECTION XX. APPELLATE PROCEDURE.

If the abatement action does not commence in the superior court, appellate review of the Board of Commissioner's order requiring the repair, alteration, improvement, or demolition of a dwelling, building, structure or property shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

SECTION XXI. CODE OF GEORGIA

Any reference to the Official Code of Georgia Annotated or O.C.G.A. shall include any amendment to a cited section as subsequently adopted.

SECTION XXII. REPEALER

To the extent there are other ordinances that may conflict with this Ordinance or

otherwise purport to provide for the abatement of nuisances, those ordinances are hereby repealed and shall be null and void with respect to nuisance abatement.

SECTION XXIII. 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 or any part of this Ordinance as applied to a 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 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 Board of Commissioners to provide for separable and devisable parts and they do hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION XXIV. EFFECTIVE DATE

This Ordinance shall be effective upon its adoption, the public health, safety, and general welfare demanding.

SO ADOPTED this 6th day of June, 2005.

ATTEST:

CANDLER COUNTY, GEORGIA
BOARD OF COMMISSIONERS


Doris Strickland, Clerk


Kent Campbell, Chairman