

COUNTY OF WALKER
STATE OF GEORGIA

ORDINANCE NO. O-02-18

AN ORDINANCE AMENDING PART II, CHAPTER 1 OF THE CODE OF WALKER COUNTY, GEORGIA TO COMPLY WITH O.C.G.A. § 36-1-20 (c) PLACING JURISDICTION FOR THE ENFORCEMENT OF COUNTY ORDINANCES IN THE MAGISTRATE COURT OF WALKER COUNTY, GEORGIA AND CORRECTING LANGUAGE REGARDING APPELLATE REVIEW

WHEREAS, O.C.G.A. § 36-1-20 (c) states, "jurisdiction over violations for enforcement of such ordinances shall be as provided in Article 4 of Chapter 10 of Title 15; provided, however, jurisdiction over ordinances having to do with traffic offenses shall be in the court or courts having jurisdiction over state traffic offenses;" and

WHEREAS, an ordinance passed on 18th day of October 2007 and recorded at Minute Book 54, Page 43 of the Meeting of the Walker County Sole Commissioner added sections 1-13 and 1-14 to Part II, Chapter 1 of the Code of Ordinances to add regarding Jurisdiction and Venue and Appeals, respectively; and

WHEREAS, section 1-13, subsections (a) and (b) of the Code of Ordinances places jurisdiction and venue for ordinance violations in "either the Magistrate Court of Walker County or the State Court of Walker County;" and

WHEREAS, section 1-14, subsection (a) places appellate jurisdiction of magistrate court cases in the State Court of Walker County and subsection (b) places appellate jurisdiction of state court cases in the Superior Court of Walker County; and

WHEREAS, jurisdiction for appeals of cases regarding violations of county ordinances are allowable only in the Superior Court of Walker County.

BE IT HEREBY ORDAINED by the Walker County Sole Commissioner that the Code of Walker County Georgia is amended as follows, to wit:

Sec. 1-13. Jurisdiction and Venue.

- (a) Jurisdiction for any and all citations for ordinance violations, civil actions to abate nuisances, or any other legal action or enforcement measures arising under this Code or under any other county ordinance or regulation shall be in the Magistrate Court of Walker County.
- (b) Venue for all citations for ordinance violations and any other legal proceedings initiated by the County arising under this Code or under any other county ordinance or regulation shall be in the Magistrate Court of Walker County.
- (c) Any defendant who is charged with one or more ordinance violations may, at any time before trial, demand that the case be removed for a jury trial to the State Court of Walker County. Such a demand shall be written. Upon such a demand the court shall grant the demand. Failure to demand removal of the case shall constitute a waiver of any right to trial by jury which the defendant may otherwise have.
- (d) Prosecutions for violations of county ordinances shall be upon citation or upon accusation by the county attorney or such other attorney as the county governing authority may designate. Such attorney shall be the prosecuting attorney in cases tried upon accusation.
- (e) Ordinance violations may be tried upon accusations or citations with or without a prosecuting attorney as provided in O.C.G.A. § 15-10-63 (a).

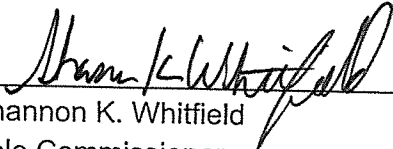
Sec. 1-14. Appeals.

- (a) Unless otherwise specified by state law, any party wishing to appeal any decision of the Magistrate Court concerning an ordinance or any other provision of this Code shall do so by certiorari to the Superior Court of Walker County, and such application shall specify any alleged errors of law or fact by the Magistrate Court.
- (b) If the Superior Court of Walker County accepts the discretionary appeal, the Superior Court may set the case on the docket of the next available non-jury trial calendar or motions day.
- (c) If the appellant has been levied a fine by the Magistrate Court, he or she must post a cash bond equal to the fine with the clerk of appellate court.

All ordinances and parts of ordinances in conflict herewith shall be the same and are hereby repealed.

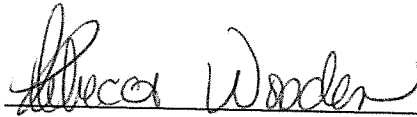
The Walker County Commissioner took public comments at the Commissioner's public hearing on July 12, 2018 and July 26, 2018.

PASSED AND ADOPTED THIS 26th DAY OF JULY, 2018.



Shannon K. Whitfield
Sole Commissioner
Walker County, Georgia

ATTEST:



Rebecca Wooden
Clerk of Walker County