



AN ORDINANCE BY COUNCILMEMBER

AN ORDINANCE AMENDING CHAPTER 106, (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE III, (OFFENSES AGAINST PUBLIC ORDER), SECTION 106-81 (DISORDERLY CONDUCT) TO PROHIBIT THE CARRIAGE OF ITEMS WITH THE INTENTION EITHER TO THREATEN, INTIMIDATE, OR PROVOKE THE APPREHENSION OF VIOLENCE, OR WITH RECKLESS DISREGARD FOR THE RIGHTS AND SAFETY OF OTHERS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in maintaining the public safety and general welfare of citizens of the City of Atlanta and its visitors; and

WHEREAS, Chapter 106 (Offenses and Miscellaneous Provisions) of the City of Atlanta Code of Ordinances contains quasi-criminal offenses adopted in accordance with the City's police powers;

WHEREAS, the nation is currently in a period of increased violence rooted in confrontations fueled by the carrying of items with the intention either to threaten, intimidate or provoke the apprehension of violence, or with the disregard for the rights and safety of others, such as in Charlottesville, Virginia; and

WHEREAS, the potential for violence is higher in confrontational situations where persons carry items with the intention either to threaten, intimidate or provoke the apprehension of violence, or with the disregard for the rights and safety of others; and

WHEREAS, the City of Atlanta has a compelling interest in "[s]afeguarding the right of the people to exercise their civil rights and to be free from violence and intimidation" Daniels v. State, 264 Ga. 460, 462, 448 S.E.2d 185, 187 (1994); and

WHEREAS, the City of Atlanta believes it to be disorderly conduct per se to carry items with the intention either to threaten, intimidate or provoke the apprehension of violence, or with the disregard for the rights and safety of others; and

WHEREAS, pursuant to OCGA § 16-11-173, municipalities are prohibited by Georgia law from the regulation in any manner of the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or other "weapons" or components of firearms or other weapon; and

WHEREAS, pursuant to OCGA § 16-11-173 weapons are defined as any device designed or intended to be used, or capable of being used, for offense or defense, including but not limited to firearms, bladed devices, clubs, electric stun devices, and defense sprays; and

WHEREAS, the City of Atlanta does not intend to regulate the carrying of any firearms or weapons used for offense or defense in accordance with the prohibition contained in OCGA § 16-11-173; and

WHEREAS, in order to provide for the protection of the public health, safety and welfare of the citizens and visitors to the City of Atlanta, it is the desire of the City of Atlanta to prohibit the



carrying of items with the intention either to threaten, intimidate or provoke the apprehension of violence, or with the disregard for the rights and safety of others.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS,
AS FOLLOWS:**

SECTION 1: That Chapter 106, Article III, Section 182-81, (Disorderly Conduct) of the City of Atlanta Code of Ordinances shall be amended to add a new subsection (13) so that Section 182-81 shall thereafter read as follows (with permanent deletions in strikethrough font and permanent additions in underline font):

Sec. 106-81. - Disorderly conduct.

It shall be unlawful for any person within the corporate limits of the city to engage in any conduct described in the following subsections; provided, however, that no person shall be convicted of any of the following sections upon a showing that the predominant intent of such conduct was to exercise a constitutional right to:

- (1) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life, limb or health;
- (2) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being damaged or destroyed;
- (3) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another;
- (4) Assemble or congregate with another or others for the purpose of, or with the intent to, engage in gaming;
- (5) Be in or about any place, alone or with another or others, with the purpose of or intent to engage in any fraudulent scheme, trick or device to obtain any money or valuable thing; or to aid or abet any person or persons in doing so;
- (6) Direct fighting words toward another, that is, words which by their very nature tend to incite an immediate breach of the peace;
- (7) Interfere, by acts of physical obstruction, another's pursuit of a lawful occupation;
- (8) Congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic, and to fail to clear that public way after being ordered to do so by a city police officer or other lawful authority;
- (9) Stand or remain in or about any street, sidewalk, overpass or public way so as to impede the flow of vehicular or pedestrian traffic, and to fail to clear such street, sidewalk, overpass or public way after being ordered to do so by a police officer or other lawful authority;



(10) Disrupt by actions which tend to incite a breach of the peace the undisturbed activities of any house of worship, hospital, surgi-center, or home for the elderly;
or

(11) Throw bottles, paper, cans, glass, sticks, stones, missiles or any other debris on public property.

(12) Accost or force oneself upon the company of another;

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his/her person, or upon property in his/her immediate possession.

Forcing oneself upon the company of another means continuing to request or solicit any item of value or an individual's company from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(13) Carry any item with the intention either to threaten, intimidate or provoke the apprehension of violence, or with the disregard for the rights and safety of others. Nothing in this subsection shall be interpreted to prohibit the carrying of a firearm or weapon as described in OCGA § 16-11-173.

SECTION 2: The amendments in this ordinance shall become effective immediately upon approval.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict only.

AAR

2017-88(17-O-1795)

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A true copy,

Rhonda Dauphin Johnson
Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

DEC 04, 2017
DEC 13, 2017