

STATE OF GEORGIA  
COUNTY OF GWINNETT

ORDINANCE O-74-08

AN ORDINANCE TO AMEND CHAPTER 26, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO MODIFY SECTION 26-86 TO INCREASE THE MAXIMUM FINE FROM \$500 TO \$1000 AND PROVIDE FOR EACH DAY OF VIOLATION AS A SEPARATE OFFENSE; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR A REPEAL OF CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Sec. 26-86. Graffiti.**

- (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:

*Graffiti* means the defacing, damaging or destroying by spraying of paint or marking of ink, chalk, dye or other similar substances, or by carving or scratching on public or private buildings, structures, places and properties.

*Graffiti abatement procedure* means the abatement procedure which identifies graffiti, issues notices to the landowner to abate the graffiti, and cures in absence of a response.

*Private contractor* means any person with whom the city shall have contracted to remove graffiti.

- (b) *Nuisance.* Graffiti and other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates, signage, and other structures, trees, and other real and personal property within the city constitutes a nuisance.
- (c) *Prohibited.* It shall be a violation of this article for any person to write, paint or draw, carve or scratch upon any wall, rock, bridge, building, fence, gate, signage, and other structure, tree, and other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as graffiti within the city without permission from the city.
- (d) *Violation.* A violation of any of the provisions of this section shall be punished by a fine of up to ~~\$1,000.00~~ and a jail term of up to 60 days. Each day the violation continues shall constitute a separate offense subject to penalty.
- (e) *Notice of removal.*
- (1) Whenever the OEO determines that graffiti exists on any public or private

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buildings, structures, and places which are visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the city and when weather conditions permit the painting of exterior surfaces, the OEO shall cause a notice to be issued to abate such nuisance. The property owner shall have two business days after the date of the notice to remove the graffiti or the same will be subject to abatement by the city.

- (2) The notice to abate graffiti pursuant to this section shall be a written notice to be served upon the owner of the affected premises, as such owner's name and address appears on the last property tax assessment rolls of the county. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:
  - a. By personal service on the owner, occupant or manager of the property; or
  - b. By registered or certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.
- (f) *City costs enforceable as a lien.* Any and all costs incurred by the city in the abatement of the graffiti nuisance as provided in this section shall constitute a debt owed to the city by the property owner and shall be enforceable as a lien against the property upon which such nuisance existed, in addition to the other legal remedies available for enforcement of debts.
- (g) *Removal by city.* Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the OEO approves, then the graffiti may be abated by city forces or by private contractor, and the city or its private contractor is expressly authorized to enter the premises for such purposes during regular business hours or at times mutually agreeable with the property owner or occupant. All reasonable efforts to minimize damage from such entry shall be taken by the city. If the city provides for the removal of the graffiti, it shall not authorize nor undertake to provide for the painting or repair of any more extensive area than the area where the graffiti is located. When graffiti is painted over, the city or its private contractor shall attempt to match the paint with the underlying color of the defaced surface. Property owners in the city may consent in advance to city entry onto private property for graffiti removal purposes.
- (h) *Provisions not mandatory.*
  - (1) It is the specific intent of this article that no provision nor any term used in this article is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation and enforcement of this article shall be discretionary and not mandatory.
  - (2) Nothing contained in this article is intended to be, nor shall be, construed to create or form the basis of any liability on the part of the city, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this article by its officers, employees, or agents.

(Code 2004, § 33-104)

**State law references:** Definition of graffiti, O.C.G.A. § 17-15A-2.