

STATE OF GEORGIA
COUNTY OF GWINNETT

ORDINANCE O-82-08

AN ORDINANCE TO AMEND CHAPTER 46 OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO MODIFY SECTION 46-9 TO INCREASE THE MAXIMUM FINE FROM \$500 TO \$1000; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR A REPEAL OF CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Sec. 46-9. Litter control.

(a) *General provisions.*

- (1) *Purpose and intent.* The purpose of this article is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this article are:
 - a. Provide for uniform prohibition throughout the city of any and all littering on public or private property; and
 - b. Prevent the desecration of the beauty and quality of life of the city and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.
- (2) *Applicability.* This article shall apply to all public and private property within the city.
- (3) *Repeal of conflicting provisions.* All ordinances or parts of ordinances in conflict with this article are hereby repealed.
- (4) *Severability.* If the provisions of any article, section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.

(b) *Definitions.*

- (1) *Litter* means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., § 16-7-51, paragraph 6.

- (2) *Public or private property* means the right of way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.
- (c) *Prohibition against littering public or private property or waters.* It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city or any waters in the city unless:
- (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
 - (2) The litter is placed into a receptacle or container installed on such property; or
 - (3) The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.
- (d) *Vehicle loads causing litter.* No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.
- (e) *Violations, enforcement and penalties.*
- (1) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.
 - (2) *Evidence.*
 - a. Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this article.
 - b. Except as provided in subsection a., above, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this article.
 - (3) *Penalties.* Any person who violates this article shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

- a. By a fine of not less than \$200.00 and not more than \$1,000.00; and
- b. In addition to the fine set out in subsection a., above, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city; and
- c.
 - i. In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right-of way for a distance not to exceed one mile any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - ii. In the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited litter. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and,
- d. The court may publish the names of persons convicted of violating this article.

Comment [LGT1]: This section provides for a range of fines. The maximum has been increased. I have not altered the minimum.

Deleted: 500

Comment [LGT2]: I have not provided the language regarding each day the violation continues shall constitute a separate offense, but that can easily be done if that makes sense to everyone.

- (4) *Enforcement.* All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, including the OEO of the city, are hereby authorized, empowered and directed to enforce compliance with this article.

(Ord. No. O-49-07, § 31-110(1(1.1--1.4), 2--4, 5(5.1--5.4)), 2-15-2007)

Editor's note: Ord. No. O-49-07, adopted Feb. 15, 2007, repealed § 46-9, in its entirety. Section 31-110(1(1.1--1.4), 2--4, 5(5.1--5.4)) of said ordinance enacted new provisions to read as herein set out. Prior to amendment, § 46-9 pertained to similar subject matter and derived from the original Code 2004, § 31-110.

State law references: Littering generally, O.C.G.A. § 16-7-40 et seq.