

STATE OF GEORGIA

COUNTY OF GWINNETT

**ORDINANCE O-82-08**

AN ORDINANCE TO AMEND CHAPTER 46 OF THE CODE OF THE CITY OF BERKELEY LAKE, GEORGIA, ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS;" TO AMEND SECTION 46-9 WHICH PROVIDES FOR LITTER CONTROL; TO AMEND SUBSECTION (e) OF SECTION 46-9 TO INCREASE THE MAXIMUM FINE FOR VIOLATION FROM \$500 TO \$1000; TO AMEND SUBSECTION (e) OF SECTION 46-9 TO PROVIDE THAT EACH DAY CONSTITUTES A SEPARATE VIOLATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR A REPEAL OF CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF BERKELEY LAKE** that Chapter 46 of the Code of the City of Berkeley Lake, Georgia is hereby amended by deleting subsection (e) of Section 46-9, entitled "Litter control," in its entirety and substituting in lieu thereof a new subsection (e) as follows:

**Section 46-9. Litter control.**

- (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 articles 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.
- e. Each day a violation occurs shall be considered a separate and distinct violation.

(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.

### **Severability**

If any article, section, subsection, paragraph, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this ordinance.

### **Repeal of Conflicting Provisions**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

### **Effective Date**

This ordinance shall be effective upon its adoption by the Council of the City of Berkeley Lake.

**SO ORDAINED**, this 15th day of May, 2008.

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LOIS SALTER, MAYOR  
CITY OF BERKELEY LAKE

ATTEST:

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TOM ROZIER  
City Administrator

First Read: April 17, 2008  
Second Read and Adoption: May 15, 2008