

## **ARTICLE VI. OFFENSES INVOLVING PROPERTY RIGHTS**

### **DIVISION 1. GENERAL OFFENSES**

#### **Sec. 18-35. Vandalism.**

- (a) *Public property.* It is unlawful for any person to vandalize, deface, or in any way alter the appearance or operation of any public property or park in the city.
- (b) *Private property.*
  - (1) It is unlawful for any person to vandalize, deface, or in any way alter the appearance or operation of any private property without the consent of the owner.
  - (2) This subsection shall not be construed as affecting any remedy the private property owner may have at law.

(Ord. No. 2018-06-04, § 18-35, 6-4-2018)

#### **Sec. 18-36. Graffiti.**

- (a) *Property owner responsibility.* It shall be unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of in the city to permit property that is defaced with graffiti to remain defaced for a period in excess of ten days. The city may provide notice of defacement to such owner or responsible person by first class mail or personal service, provided that failure to receive notice shall not alleviate the person's responsibility for removal of the graffiti. Notice shall contain the following information:
  - (1) The street address and/or description of the property sufficient for identification of the property;
  - (2) A description of the graffiti with notice to remove same, and notice that the property owner shall, if the graffiti is not removed within ten days after receipt of the notice, be cited for violation of this section.
- (b) *Exceptions to property owner responsibility.* The removal requirements of subsection (a) of this section shall not apply if the property owner or responsible party can demonstrate that:
  - (1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
  - (2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of 30 days after defacement.
- (c) *Citation of owner, right of city to remove graffiti.* Whenever the owner or person responsible for control or maintenance of private property fails or refuses to remove the graffiti after notice by the city to do so, such owner or responsible person shall be cited for violation of this section. The city may, upon the owner's or responsible person's failure to act, take any necessary action to remove, repaint, or repair the graffiti-damaged property and may use public funds for such action, the cost of which shall be a lien on the property

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served. Nothing in this section shall be construed to require the city to undertake such repair, repainting or removal.

- (d) *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* shall have that meaning ascribed to it in O.C.G.A. § 17-15A-2.

*Graffiti implement or paraphernalia* means any substance or material, such as, but not limited to, aerosol paint containers, permanent ink markers, paint sticks, and etchers; also, including, but not limited to, tips or nozzles which can be applied to aerosol paint containers.

- (e) *Unlawful possession on public or private property.* It shall be unlawful for any person to possess any graffiti implement or paraphernalia while in, on, at or about any private property without the owner or occupant's permission or any public property, including, but not limited to, public parks, playgrounds, swimming pools, recreation facilities, schools, school district facilities, libraries, courthouses, utility stations, storm drains or any other publicly-owned, -operated and/or -maintained facility. This subsection shall not apply to persons located on public sidewalks or streets during each daily period from sunrise to sunset. This subsection shall not apply to any officer, employee or agent of the public entity that owns the public property acting within the scope of their employment.

(Ord. No. 2018-06-04, § 18-36, 6-4-2018)

### **Sec. 18-37. Tampering with utilities.**

It is unlawful for any person to disturb, tamper with, or remove any guy wires from any electric power pole, utility pole, water or gas meter, or telephone pole located within the city.

(Ord. No. 2018-06-04, § 18-37, 6-4-2018)

### **Secs. 18-38—18-50. Reserved.**

## ***DIVISION 2. LITTERING***

### **Sec. 18-51. Purpose and intent.**

The purpose of this division is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this division are:

- (1) To provide for uniform prohibition of littering on public or private property throughout the city;
- (2) To prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter; and
- (3) To preserve the value of the many unique natural resources in the city and enhance the beauty and quality of life enjoyed by the citizens of the city.

(Ord. No. 2018-06-04, § 18-51, 6-4-2018)

### **Sec. 18-52. Applicability.**

This division shall apply to all public and private property within the city.

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(Ord. No. 2018-06-04, § 18-52, 6-4-2018)

### **Sec. 18-53. Compatibility with other regulations.**

This division is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this division should be considered minimum requirements, and where any provision of this division imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(Ord. No. 2018-06-04, § 18-53, 6-4-2018)

### **Sec. 18-54. ~~Reserved.~~ Abandoned Shopping Carts**

Shopping carts that have been illegally removed from the premises of businesses and left abandoned on public or private property throughout the City constitute a public nuisance and a potential hazard to the health, safety and welfare of the public.

(a) *Public Property:* Shopping carts that obstruct free access to sidewalks, streets and other public rights-of-way, interfere with pedestrian and vehicular traffic, impede emergency services, and create impediments to the flow of water in drainage systems and other waterways when abandoned within drainage culverts and easements constitute a public nuisance and potential hazard to the health, safety and welfare of the public. It is for these reasons that such lost, stolen, or abandoned shopping carts are hereby declared to be a public nuisance which shall be subject to abatement in the manner set forth in this chapter, or as provided by law.

(b) *Abandoned shopping cart prevention and retrieval plan.* Each retail establishment with 10 or more shopping carts is hereby required to develop and implement a specific plan to retrieve its shopping carts that are found throughout the city. All retail establishments must provide, upon request, a cart prevention and retrieval plan. Two or more retail establishments may collaborate on a single plan. Plans must be available upon request, within 60 days of the effective date of this ordinance, and must include an effective and specific method of retrieving the retail establishment's shopping carts found throughout the City. The plan shall include:

(c) *Property owners responsibility:*

(1) New developments and businesses having shopping carts shall be required to provide, upon request, a cart retrieval plan prior to the issuance of a certificate of occupancy for the facility.

(2) Abandoned shopping cart prevention and retrieval plan. Each retail establishment with shopping carts is hereby required to develop and implement a specific plan to retrieve its shopping carts that are found throughout the city. All retail establishments must provide, upon request, a cart prevention and retrieval plan. Two or more retail establishments may collaborate on a single plan. Plans must be available upon request, within 60 days of the effective date of this ordinance, and must include an effective and specific method of retrieving the retail establishment's shopping carts found throughout the City.

(3) Every shopping cart made available for use by customers shall affix on each shopping cart, and maintain thereon, legible information identifying the name of the retail establishment with which it is owned or otherwise associated.

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(4) Shopping carts are to be maintained on-site. The following are required measures to contain shopping carts on-site. The owner of the retail establishment may install specific physical measures on the carts or implement other measures to prevent cart removal from business premises. These measures may include, but are not limited to:

- (1) Installing disabling devices on all carts;
- (2) Installing bollards and chains around business entrances/exits to prevent cart removal;
- (3) Providing personnel for the purposes of the retrieval of lost, stolen or abandoned shopping carts. Such personnel may be either employees of the business or one or more independent contractors hired by the owner to provide shopping cart retrieval services, or combination of both.

(d) Enforcement. The provisions of this ordinance shall be enforced by code enforcement personnel. In the enforcement of this ordinance, enforcement personnel may enter upon public property which the City owns or has a right to enter to examine a shopping cart or parts thereof, or to obtain information as to the identity of a shopping cart and remove, or cause removal of, a shopping cart, or parts thereof, declared to be a nuisance pursuant to this ordinance.

(e) Penalty for failure to comply . Any retail establishment that fails to remove a shopping cart and/or provide a plan upon request, shall constitute a violation of this ordinance, and are subject to the procedure and penalties that follow;

- (a) Once a merchant or point of contact has spoken with code enforcement, the merchant has 72 hours to remove carts.
- (b) The fees shall be;
  - (1) Citation for one(1) cart is \$150;
  - (2) Citation for more than one (1) cart from the same business/establishments shall incur a fee of \$150 plus \$125 for each additional cart.
- (c) Failure of any business to provide a cart retrieval plan within 24 hours of request shall result in a fine not to exceed \$500. Any updates to the fees shall be made by the approval of City Council.

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(e ) Definitions. For the purpose of this ordinance, the following terms shall apply;

Abandoned shopping cart means a shopping cart that is left unattended or discarded upon public or private property other than the premises of the retail establishment from which the shopping cart was removed, regardless of whether such shopping cart was removed from the premises with the permission of the owner. For purposes of this ordinance, any shopping cart left unattended or discarded on any public property shall be presumed abandoned, and any shopping cart left unattended or discarded on any private property shall be presumed abandoned unless the owner or occupant of the private property is the owner, employee, or authorized agent of the owner, entitled to possession of said shopping cart,

Shopping cart shall mean a basket mounted on wheels or a similar device which is generally used in a retail establishment by a customer for the purpose of transportation of goods of any kind.

#### **Sec. 18-55. Definitions.**

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

*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 "hazardous waste" as such term is defined in O.C.G.A. § 16-7-51, paragraph 6.

*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.

(Ord. No. 2018-06-04, § 18-55, 6-4-2018)

#### **Sec. 18-56. 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.

Construction site operators shall control waste at the construction site, such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste.

(Ord. No. 2018-06-04, § 18-56, 6-4-2018)

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## **Sec. 18-57. 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.

(Ord. No. 2018-06-04, § 18-57, 6-4-2018)

## **Sec. 18-58. Violations, enforcement and penalties.**

- (a) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this division, or to willfully obstruct, resist, impede, or interfere with the city or any code enforcement officer in connection with such person's enforcement of this division, or to retaliate or discriminate in any manner against such person as a reprisal for any act or omission of such person. Any violation of this subsection shall be punishable as a misdemeanor. Any person who has violated or continues to violate the provisions of this division, 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.
- (b) *Evidence.*
- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this division, it shall be prima facie evidence that the operator of the conveyance has violated this division.
  - (2) Except as provided in subsection (b)(1) of this section, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this division is discovered to contain any 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 chapter.
- (c) *Penalties.* Any person who violates this division shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:
- (1) By a fine of not less than \$200.00 and not more than \$1,000.00, and/or imprisonment in accordance with this Code. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense;
  - (2) In addition to the fine set out in subsection (c)(1) of this section, 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;
  - (3) 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 any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence;
  - (4) 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, and any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
  - (5) The court may publish the names of persons convicted of violating this division.
- (d) *Enforcement.* All city departments are hereby authorized, empowered and directed to enforce compliance with this division. Primary enforcement responsibilities for litter control are shared by the officers of the code enforcement division.

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- (e) *Liability.* Neither the city nor any department, agency, board, or officer of the city shall be liable or accountable for or on account of any act or omission of any code enforcement officer in connection with such person's enforcement of the provisions of this division.

(Ord. No. 2018-06-04, § 18-58, 6-4-2018)

**Sec. 18-59. Reserved.**

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