

**AN ORDINANCE**

AN ORDINANCE AMENDING THE CODE OF GRIFFIN, GEORGIA, AT CHAPTER 58, OFFENSES AND MISCELLANEOUS PROVISIONS, BY DELETING CHAPTER 58, OFFENSES AND MISCELLANEOUS PROVISIONS, IN ITS ENTIRETY AND ENACTING A REVISED CHAPTER 58, OFFENSES AND MISCELLANEOUS PROVISIONS; TO PROVIDE FOR OFFENSES AND MISCELLANEOUS PROVISIONS THAT MAY BE PROSECUTED IN MUNICIPAL COURT; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES IN CONFLICT HERewith; TO RESTATE THE CODE OF GRIFFIN, GEORGIA, AS MODIFIED HEREIN; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:**

Section 1. The Code of Griffin, Georgia is amended at Chapter 58, OFFENSES AND MISCELLANEOUS PROVISIONS, by deleting Chapter 58, OFFENSES AND MISCELLANEOUS PROVISIONS, in its entirety and enacting in lieu thereof new Chapter 58, OFFENSES AND MISCELLANEOUS PROVISIONS, as follows:

**“CHAPTER 58: OFFENSES AND MISCELLANEOUS PROVISIONS**

**Article I – IN GENERAL**

**~~Sec. 58-1. Fortunetelling.~~**

~~It shall be unlawful to engage in the city in the business of fortunetelling, clairvoyance, palm reading or magic healing.~~

**Sec. 58-~~12~~. Damaging, tampering with utility poles.**

It shall be unlawful for any person to mutilate any of the electric light or telephone poles erected or other public property in the city, either by cutting or by pasting or by taking bills, posters, or cards on the electric light or telephone poles, or break any insulators, globes, or wires belonging on such poles.

**~~Sec. 58-3. Disorderly house.~~**

~~(a) Any person who keeps and maintains, either by himself or others, a common, ill-governed and disorderly house, to the encouragement of gaming, drinking, illicit~~

~~drug activity, or other misbehavior, to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, before any person is charged under this subsection, written notice shall be given the owner of the property and the person in possession thereof by the chief of police stating the general, customary and common habits of the house, giving fair notice of this subsection and the conduct proscribed thereby.~~

~~(b) Any person who shall allow any boisterous, noisy, drunken or riotous persons to assemble or remain in their house, apartment or upon their property, after receiving oral notice from a police officer that boisterous, noisy, drunken or carousing activities have caused complaint and annoyance to the common disturbance of the neighborhood or orderly citizens, shall be guilty of an offense against the city; provided, however, no person shall be charged under this subsection unless the owner or person in possession of the premises has been afforded an opportunity to disburse the assembly or offending person from the premises. This subsection shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on private property after being notified by the owner or lawful occupant to depart.~~

#### **Sec. 58-24. Disorderly conduct.**

- (a) The term “disorderly conduct” shall mean the commission of such words, acts, and conduct upon public property, upon private property that is open to the general public, or within the curtilage of any private residence not his own other than by invitation of the owner or lawful occupant, which under ordinary circumstances will naturally tend to disturb the public peace, tranquility, or decorum, scandalize the community, or shock the public sense of morality. Any person who engages in an act of disorderly conduct shall be guilty of an offense against the city.
- (b) For purposes of this section, the following specific acts and conduct shall be deemed a violation of this section:
  - 1. Fighting by two or more persons to the disturbance of public tranquility;
  - 2. Use of obscene, vulgar, opprobrious, or abusive language, without provocation, which by its very utterance tends to incite an immediate breach of the peace; that is to say, words which as a matter of common knowledge and under ordinary circumstances will, when used to another person in the presence of the speaker, tend to provoke violent resentment; that is, words commonly called “fighting words”;
  - 3. Being and appearing in an intoxicated condition which is outwardly made manifest by boisterousness; by indecent condition or act such as to offend sentiments of delicacy and modesty universally recognized in civilized society; or by loud, vulgar, profane, opprobrious, abusive or unbecoming language, which by its very utterance tends to incite an immediate breach of the peace;
  - 4. Any act which may reasonably be expected to prevent or disrupt a lawful meeting, gathering, parade, or procession;

5. Obstruction of any highway, road, street, sidewalk, passage, or parking area in such a way as to render it impassable without reasonable inconvenience or hazard and the failure or refusal to remove such obstruction upon being lawfully commanded to do so by a police officer;
  6. Engaging in boisterous, noisy, drunken, or carousing acts after receiving oral warning from a police officer that such activities have caused complaint or annoyance to the common disturbance of the neighborhood or orderly citizens.
- (c) Nothing contained in this section shall be construed to prevent the peaceful assembly of citizens in a lawful manner, the free exercise of protected speech, nor shall the mere possibility of disorder justify the exclusion of persons otherwise entitled to be present.
- (d) Any person charged with a violation of this section shall have the right, upon written demand filed with the clerk of the municipal court and a copy thereof served upon the city attorney, to a jury trial, upon a finding by the municipal court that probable cause exists to bind the case over to the appropriate state court.

**Sec. 58-~~35~~. Discharging firearms, air rifles.**

- (a) It shall be unlawful for anyone to discharge firearms, air rifles, or pellet guns within the city except as provided for in subsection (b) of this section.
- (b) The chief of police may issue a special written permit to a citizen over the age of 21 years to firearms used under this section shall be limited to a .410 shotgun with 2 ½ inch shell with #8 shot or higher, or a .22 rifle using scatter or varmint shot only. The permit shall be for a limited time not to exceed 30 days and for use only upon the applicant's property. Not more than two permits in any one calendar year shall be issued for any one property location. The permit may be revoked for cause by the chief of police at any time without notice. No person holding such permit shall at any time discharge such firearm in the direction of any street, public way, house or property, or person of another. No person shall discharge such firearm at night or on Sunday or at other times so as to work a nuisance or cause annoyance of other citizens in the use and enjoyment of their property. The granting of this permit shall not relieve the permit holder from complying with all applicable state statutes.
- (c) The application for such a permit shall be signed by the applicant and give his correct name, age, and address, the use intended, and the period and place desired for such proposed use. No person shall give false information in his written application. No such permit shall be issued by the chief of police to any person who has been convicted of a felony, assault of an aggravated nature, or crimes involving the person or property of another. The aforesaid application and a duplicate of the permit, if issued, shall be kept of record in the office of the chief of police. The permit shall be issued by the chief of police or his designee upon payment of a fee as set out in the schedule of fees and charges. Any person who is refused a permit may appeal in writing to the board of commissioners.

**Sec. 58-~~46~~. Loitering.**

- (a) A person commits the offense of loitering when he is in a place at a time or in a manner not usual for law-abiding citizens under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property within the vicinity. It shall be unlawful for any person to engage in loitering within the city.
- (b) Among the circumstances which may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a police officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Immediate concern for the safety of persons or property may arise from observing a person or persons remaining idle in essentially one location, whether within or without a motor vehicle, having no obvious purpose or intent.
- (c) Unless flight by the person or other circumstances make it impracticable, a police officer shall, prior to arrest for an offense under this section, afford the person an opportunity to dispel an alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence of conduct.
- (d) This section shall not preclude a police officer from arresting any individual for criminal trespass where such individual knowingly and without authority remains on public or private property after being lawfully notified to depart.

**Sec. 58-~~57~~. School crossing guards.**

It shall be unlawful for any person to refuse or fail to comply with any lawful signal or direction of a uniformed school crossing guard employed by the police department.

**Sec. 58-~~68~~. Abandoned iceboxes, airtight containers.**

It shall be unlawful for any person within the city to store, cast aside or junk in any place accessible to the public, any icebox, refrigerator, freezer box or locker box having an outside lock or catch, without first removing therefrom such outside lock or catch, or so fastening the door to such icebox, refrigerator, freezer box or locker box that such door cannot be opened without a key or without tools or mechanical devices. The provisions hereof are not intended to apply to any icebox, refrigerator, freezer box or locker box that is in constant use and is located in the premises or in the place of business of a person.

**Sec. 58-~~97~~. False alarms.**

It shall be an offense against the city for any person to cause or allow more than two false burglar or fire alarms to be reported to the city during any calendar month. Each such false alarm in excess of two during any month shall be punishable by a penalty of \$40.00. A new alarm system shall be allowed a 30-day grace period from the date of its initial installation before the penalties of this section shall apply.

**Sec. 58-~~910~~. Provisions saved from repeal.**

Section 15-20 relating to selling on streets, section 15-21 relating to distribution of handbills, and section 15-35 relating to the use of sound amplifiers in the 1968 Code are not repealed and shall continue in full force and effect pending a revision of the subject matter by the city.

**Sec. 58-~~101~~. Littering.**

*(a) General provisions.*

- (1) *Purpose and intent.* The purpose of this section is to provide for the public health, safety, and general welfare through the regulation and control of litter. The objectives of this section are:
  - a. Provide for uniform prohibition throughout the city of any and all littering on public or private property;
  - b. Curb thereby the desecration of the beauty of the city and harm to the public health, safety and general welfare and degradation of water and aquatic resources caused by litter.
- (2) *Applicability.* This section shall apply to all public and private property within the city.
- (3) *Compatibility with other regulations.* This section 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 section should be considered minimum requirements, and where any provision of this section 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.
- (4) *Severability.* If the provisions of any subsection, paragraph, subdivision or clause of this section shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any subsection, paragraph, subdivision or clause of this section.

*(b) Definitions.*

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

*Public or private property* means the right-of-way of any road or highway; and body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; and residential or farm properties, timberlands, or forests.

- (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 this jurisdiction 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 litter 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 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 section. Any person who has violated or continues to violate the provisions of this section, may be subject to the enforcement actions outlined in this subsection (e) or may be restrained by injunction or otherwise abated 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 section, it shall be prima facie evidence that the operator of the conveyance has violated this section.
    - b. Whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this ordinance 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 ordinance.
    - c. Whenever the home delivery of newspapers, whether such newspapers are delivered based upon subscription or distributed in residential areas without subscription or charge, by placing or throwing the newspaper on the ground (public right of way or private property fronting the residence from the street) and not by placing it in a paper tube or other device intended for delivery, it shall be a rebuttable presumption that the publisher of the newspaper has committed the offense of littering in violation of this section if the resident has not picked up the newspaper within three (3) calendar days of its delivery unless the newspaper is retrieved by the publisher within five (5) calendar days of its delivery.
    - d. It shall be a rebuttable presumption that the owner or tenant in possession of private property has committed the offense of littering in violation of this section, if the owner or tenant has willfully failed or refused to remove litter dumped, deposited, thrown or left on the private property within five (5) calendar days after notice by a law enforcement or code enforcement officer of the city.

~~Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this section 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 section.~~

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- (3) *Penalties.* Any person who violates this section 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 (1) 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.
    1. 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
    2. In the sound discretion of the judge of the court, the person may be directed to pick up and remove 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, any and all litter deposited thereon by anyone prior to the date of execution of sentence.
  - d. The court may publish the names of persons convicted of violating this section.
- (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, are hereby authorized, empowered and directed to enforce compliance with this article.

#### **Sec. 58-121. Public indecency.**

- (a) *Definitions.*
- (1) *Nude* means the showing or display of the nipple and areola of the female breast, any portion of the human genitals, pubic hair, anus, vulva, or lower 2/3 of the cleft of the buttocks; and even if covered, the male genitals in a discernibly turgid state.
  - (2) *Operator* means and includes the owner, tenant in possession, license holder, operating manager, or person in charge of any premises deemed a "public place" under this section.
  - (3) *Public place* includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including places of entertainment, restaurants, clubs, theaters, dance halls, banquet halls, party rooms, or facilities limited to specific members, restricted to adults or patrons invited to attend, whether or not an admission charge is levied.

All business establishments licensed by the City of Griffin to sell, serve or distribute alcoholic beverages for consumption on premises shall be deemed public places for purposes of this section.

- (b) No person shall knowingly and intentionally engage in or perform in any public place within this city an act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law, or show, display, or exhibit in any public place any film, still picture, electronic or visual reproduction or image of any sexual act or conduct prohibited by law, including any simulation thereof.
- (c) No person shall knowingly and intentionally appear nude in any public place within this city. To comply with this section, persons must, at a minimum, while appearing in public, wear a full and opaque covering which completely covers all of those specified anatomical areas of the human body defining the term "nude". Attire which is insufficient to comply with this requirement includes, but is not limited to, those items commonly known as "G-strings", "T-bottoms" or "T-back", dental floss, and thongs. Body paint, body dye, tattoos, latex, tape, or similar substance applied to the skin surface, any substance that can be washed off the skin, or any substance designed to simulate or which by its nature simulates the appearance of the anatomical area beneath it, is not a "full and opaque covering" as required by this section.
- (d) No person shall knowingly and intentionally touch, caress or fondle any of the specified anatomical areas of the human body as defined in this section, either of themselves or of another person, in any public place within this city.
- (e) No operator of any public premises shall knowingly permit, offer or allow any person to commit an act prohibited by this section. Where erotic dancing is offered in an establishment licensed for the sale and consumption of alcoholic beverages on the premises, dancers shall be confined to a stage, elevated at least 24 inches above surrounding floor height. All patrons shall remain seated at least 36 inches from the nearest edge of the stage. Patrons shall not "tip" dancers by giving tips directly to the dancers while performing or by inserting tips into the full and opaque coverings of those specified anatomical areas of the dancer's body defining the term "nude". Physical contact between patrons and dancers, such as "lap dancing", is prohibited.
- (f) The prohibition set forth in subsection(c) shall not apply to:
  - (1) Any child under seven years of age; or
  - (2) Any female exposing a breast in the process of breastfeeding a child under two (2) years of age; provided, however, the prohibitions set forth in subsections(b), (c) and (d) shall not apply in any adult business establishment licensed under article II of chapter 10 of this Code, or to any mainstream theatrical productions, films or videos having arguable artistic value, and not a guise or pretense to exploit nudity for commercial gain or profit.

**Sec. 58-132. Aggressive panhandling.**

- (a) It shall be an offense against the city, the good order, peace and tranquility thereof, and an affront to public safety and the well-being of its citizens, for any person to engage in "aggressive panhandling", as defined in this section.
- (b) Definitions.



- (1) *Panhandling* shall mean any solicitation made in person upon a street, public way, public place including any park or plaza, or on public or private property open to the public for general business use in which a person solicits an immediate donation of money, gratuity, or other thing of value from another person, and includes but is not limited to seeking donations of cash.
- (2) *Aggressive panhandling* shall mean panhandling in an aggressive manner, including any of the following actions:
  - (i) Panhandling while at any time before, during, or after the solicitation physically touching the solicited person without the solicited person's express prior consent, so as to create fear or apprehension of bodily harm by the solicited person;
  - (ii) Panhandling a person while such person is standing in line or waiting to be admitted to a general business establishment, show, or event; while waiting in a parked motor vehicle; or while occupying a standing motor vehicle, either in stopped or standing traffic on a roadway or in a drive-thru line at a general business establishment;
  - (iii) Panhandling by intentionally and physically obstructing the path of the solicited person or blocking entry by the solicited person to any building or vehicle;
  - (iv) Panhandling while intentionally following behind, alongside, or ahead of the solicited person who walks away from the panhandler to avoid being solicited;
  - (v) Panhandling while using profanity or abusive language either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communicative action that would cause a reasonable person to be fearful for his safety or intimidated not to make a donation;
  - (vi) Panhandling in a group of two or more persons; or
  - (vii) Panhandling between the hours of 11:00 o'clock p.m. and 6:00 o'clock a.m.
- (3) *General business use* shall include all commercial, retail, industrial, educational and governmental buildings, structures, and uses to which the general public has access, and any related parking lots and areas common thereto.
- (c) The following shall not constitute panhandling or aggressive panhandling:
  - (1) Solicitations seeking a contribution or donation to be paid at a future date and time shall not constitute panhandling.
  - (2) Panhandling shall not include the act of passively standing or sitting with a sign indicating a donation will be accepted, and which may or may not be accompanied by the selling of an item of little to no monetary value, unless within 25 feet of a business entrance or an automated teller machine;
  - (3) Panhandling shall not include the performing of music, singing and/or similar street performance, commonly known as "busking", with a sign or other indication that a donation will be accepted; and
  - (4) Panhandling shall not include the sale of goods or merchandise, including food and drinks, by a vendor during a sanctioned street festival or similar event.
- (d) To the extent this section may create a content-based limitation on free speech, it is the position of the city, as found by its board of commissioners in enacting this section,

that the interest of public safety of its citizens outweighs any unintended intrusion on a person's freedom of speech; such governmental interest is deemed compelling. It is the intent of the city to enforce this section in an identical and uniform manner against all violators, and that no person be treated less favorably on account of race, color, creed, religion, gender, domestic relationship, familial status, sexual orientation, national origin, political affiliation, transgender identity, or based upon the content of their speech or message conveyed.

- (e) Nothing in this section is intended to authorize solicitations for cash or other things of value on private property generally accessible to the public when the owner, person or entity in legal possession thereof has conspicuously posted their premises against solicitations, and not expressly consented to such activity on its premises, including in parking lots and common areas thereof.
- (f) Sanctions.
  - (1) A law enforcement officer reasonably suspecting a person to have engaged in aggressive panhandling under this section shall first warn the person that such conduct is unlawful and admonish the person to cease such activity and leave the premises where the conduct occurred.
  - (2) Any person engaged in aggressive panhandling, who fails to heed a reasonable warning from a law enforcement officer that such conduct is unlawful, shall be cited to appear before the municipal court; upon conviction, the person shall be sentenced to a fine not to exceed \$1,000.00, with the alternative of other punishment allowed by law in the event such fine is not paid; to sentence such person to community service work; or to impose a sentence consisting of any combination of the penalties provided for herein. Each act of aggressive panhandling prohibited by this section shall constitute a separate offense.

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall become effective upon second and final reading.

First Reading:           October 11, 2016

Second Reading:       October 25, 2016

