

STATE OF GEORGIA

COUNTY OF GWINNETT

ORDINANCE # 2019-537

AN ORDINANCE TO AMEND CHAPTER 42, OFFENSES AND MISCELLANEOUS PROVISIONS, TO CREATE ARTICLE VI “LOITERING AND IMPROPER USE OF PUBLIC PLACES” OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REVISE CHAPTER 46 ; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Mayor and City Council of the City of Lilburn, Georgia, hereby ordain that Chapter 42, of the Code of Ordinances of the City of Lilburn shall be amended to create Article VI as follows:

ARTICLE VI. LOITERING AND IMPROPER USE OF PUBLIC PLACES

Section 42-95 - Loitering; congregating so as to impede traffic flow; loitering and prowling; loitering for the purpose of engaging in the solicitation of sex acts.

(a) *Halting or impeding flow of traffic.* It shall be unlawful for any person to congregate with another or others in or on any public way or place so as to halt or impede the flow of vehicular or pedestrian traffic after having been directed to clear such public way or place when ordered by a law enforcement officer.

(b) *Loitering and prowling.*

(1) It shall be unlawful for any person to remain, loiter or prowl in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(2) 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 law enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impractical, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct.

(3) It shall be unlawful for any person to remain, loiter or prowl at Lilburn City Hall or any other building owned or leased by the City unless such person is conducting business with the City.

(c) *Loitering for the purpose of engaging in the solicitation of sex acts.* It shall be unlawful for any person to remain or loiter in any public place for the following purposes:

(1) The solicitation of another to perform or offer or consent to perform an act of prostitution;

(2) The solicitation of another to perform or submit to an act of sodomy;

(3) The solicitation of another to erotically stimulate the genital organs of another, whether resulting in orgasm or not, by manual or other bodily contact exclusive of sexual intercourse or by instrumental manipulation.

(d) *Penalty for violation of section.* Any person found guilty of violating any of these sections shall be punished by a fine not to exceed \$200.00, by imprisonment in the county jail for a period not in excess of 60 days, or both.

Section 42-96 - Improper use of public places, camping, and storing of personal property.

(a) *Definitions.*

“Camp” means residing in or using a location for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for more than one hour at a time; cooking or preparing meals; or other similar activities.

“Storing personal property” means leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for more than one hour.

(b) *Public parks.* It shall be unlawful to camp or to store personal property in any park owned by the City of Lilburn or Gwinnett County.

(c) *Streets and sidewalks.* It shall be unlawful to camp, sleep, store personal property, or to sit or lie down on any street or sidewalk or public right-of-way.

(d) *Other public property; blocking ingress and egress.* It shall be unlawful to camp, sleep, store personal property, or to sit or lie down on any public property so as to interfere with the ingress or egress from buildings.

(e) *Warning.* No person may be arrested for violating this section by simply sleeping, sitting or lying down in a prohibited location or for a prohibited period of time without having first received an oral or written warning to cease such unlawful conduct.

(f) *Exceptions.* Notwithstanding anything in this section to the contrary, this section shall not apply to nor be construed to prohibit the following behavior:

(1) Persons sitting or lying down as a result of a medical emergency;

(2) Persons sitting in wheelchairs while using sidewalks;

(3) Persons sitting down while attending parades;

(4) Persons sitting down while patronizing outdoor cafes;

(5) Persons sitting down, lying down or napping while attending performances, festivals,

concerts, fireworks or other special events taking place in any park or on any street or sidewalk closed by permit for such purpose;

(6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;

(7) Persons sitting on seats in bus zones occupied by people waiting for the bus;

(8) Persons sitting or lying down while waiting in an orderly line outside a box office to purchase tickets to any sporting event, concert, performance, or other special event;

(9) Persons sitting or lying down in an orderly line awaiting entry to any building, including shelters, or awaiting social services, such as provisions of meals; or

(10) Children under the age of 13 years sleeping in parks, or sleeping anywhere else while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage.

(g) *Penalty.* Any person who violates any provision of this section may be subject to arrest or summoned to appear in the county recorder's court and upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00 or 60 days of imprisonment, or both.

Section 42-97 - Effective date.

This article shall be effective following approval by the mayor and council.

Section 46-1 – Definitions

Park and/or recreation facility means all recreation areas in parks, including land, buildings, lakes, ponds, streams, swimming pools, sports fields, cemeteries, and all other property and buildings owned, leased, or managed by the city and/or Gwinnett County, the Gwinnett County Recreation Authority, with the exception of Lilburn City Hall, but including all recreation areas and parks owned by the state or federal government and managed by the county, that are located within the City of Lilburn, Georgia.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

SO ORDAINED this the _____ day of June, 2019.

Johnny D, Crist, Mayor
City of Lilburn

Attest:

Melissa L. Penate, City Clerk

Approved as to form:

Richard A. Carothers, City Attorney
Carothers & Mitchell, LLC