AN ORDINANCE **03-O-1360** 8/26/03

BY: COUNCILMEMBER H. LAMAR WILLIS

AS SUBSTITUTED BY COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE OF THE ATLANTA CITY COUNCIL

AN ORDINANCE PROHIBITING GRAFFITI AND PROVIDING FOR ERADICATION, ENFORCEMENT AND PENALTIES; REPEALING PRIOR ORDINANCES IN CONFLICT AND FOR OTHER PURPOSES.

WHEREAS, The City of Atlanta and its neighborhoods are plagued by illegal graffiti;

WHEREAS, graffiti is a public nuisance and destructive of the rights and values of property owners as well as Atlanta's neighborhoods;

WHEREAS, graffiti promotes blight in the neighborhoods in which it occurs and encourages further acts of vandalism;

WHEREAS, this practice is illegal and the City needs a mechanism to discourage the act of illegal placement of graffiti and direct the removal of the graffiti from public and private property; and

WHEREAS, City departments and all related agencies need to coordinate efforts to identify graffiti, enforce its removal, and apprehend those responsible for its placement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:

Section 1: That Chapter 106 of the Code of Ordinances be amended by creating a new article VIII, to be entitled Graffiti Abatement.

Section 2: That Chapter 106, Article VIII be amended by creating a new section 106-801 to read as follows: Definition. "Graffiti" is defined according to O.C.G.A. 42-17-15A (2) as "any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of real property or improvements thereon without prior authorization of the owner or occupant of the property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface."

Section 3: That Chapter 106, Article VIII be amended by creating a new section 106-802 to read as follows: Prohibited Acts.

(a) It shall be unlawful for any person(s) to deface, alter, modify, change, draw, damage or destroy by spraying or use of paint, or marking of ink, dye or any other similar substance on public and/or private buildings, structures and places, an inscription, slogan, drawing or modification, or otherwise damage private or public property in contradiction of other City Ordinances, by or through the application of "graffiti" as defined herein.

(b) Unless in compliance with Section 7 of this Ordinance, it shall be unlawful for any person owning or otherwise being in control of any real property within the City of Atlanta to maintain, permit or allow any graffiti to be placed upon any structure located on such property when the graffiti is visible from the street or other public or private property after notice, in writing, has been given to such person in control of said property.

Section 4: That Chapter 106, Article VIII be amended by creating a new section 106-803 to read as follows: Graffiti Placement Penalty. Any person who is convicted of placing graffiti shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1000.00) or by imprisonment not to exceed six (6) months, or both such fine and imprisonment in accordance with Section 1-8 of the City of Atlanta Code of Ordinances. The court may suspend or probate a portion or its entire sentence upon such conditions to include but not be limited to the restoring of the property so defaced, damaged or destroyed, or other remedial action. No fine or punishment shall accrue to a business or individual who is in compliance with Section 7 of this Ordinance.

Section 5: That Chapter 106, Article VIII be amended by creating a new section 106-804 to read as follows: Notice to Remove Graffiti. It shall be unlawful for any person, firm, or utility owner, or acting as a manager, tenant or agent for the owner of the property, to fail to remove graffiti within thirty (30) business days after written notice is given.

Whenever the City becomes aware of the existence of graffiti or other unsightly conditions on any property, including structures or improvements within the City, a police officer or code enforcement officer shall give or cause to be given, written notice to the property owner, and/or owner's agent, tenant or manager to remove such graffiti or other unsightly condition there from.

The notice required by this section may be served by personal service or registered or certified mail addressed to the owner or the last known address of said owner. If this address is unknown, the notice will be sent to the property address. Such notice shall allow thirty (30) days from the date of notice for removal of identified graffiti.

For the purposes of giving the notice to the owner of the property, the person shown as the owner of said property on the ad valorem tax records of the City shall be sent such notice at the address shown thereon unless the City receives actual notice that another person owns said property. In addition, the owner may notify the City that the tenant, pursuant to a written lease, has control of the property or has control of that portion of the building which is the subject matter of this Ordinance and, in the event the City receives such notice, the City shall notify the tenant of the notice of removal as provided in this Ordinance and proceed against the Tenant and not the owner. Provided,

however, as to any violation of this ordinance in existence prior to the date of approval of this ordinance, any notice of removal shall give sixty (60) days for the removal thereof.

A property owner that has received proper written notice of the presence of graffiti on their property shall have thirty (30) days from the date of that written notice to remove the graffiti themselves or through the use of a private contractor.

Section 6: That Chapter 106, Article VIII be amended by creating a new section 106-805 to read as follows: Penalties for Failure to Remove Graffiti. A property owner that fails to remove graffiti before the expiration of the thirty (30) days following written notice as provided by this ordinance shall be issued a summons to appear in municipal court, as provided by Section 62-35 of the City of Atlanta Code of Ordinances, in order to have there determined whether the property owner is in violation of the provisions of this Ordinance. A property owner that is adjudged to be in violation of this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of one hundred dollars ($100.00) for each seven (7) day period past the expiration of the thirty days that the graffiti remains upon the property, such fines not to exceed a total of one thousand dollars ($1000.00), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment, in accordance with the provisions of Section 1-8 of the City of Atlanta Code of Ordinances.

Section 7: That Chapter 106, Article VIII be amended by creating a new section 106-806 to read as follows: Reporting Graffiti. The Bureau of Neighborhood Conservation found within Department of Planning and Community Development shall be charged with the enforcement of this ordinance.

Section 8: That Chapter 106, Article VIII be amended by creating a new section 106-807 to read as follows: Sign Permits. Businesses that have allowed and/or funded the placement of public art, as defined by city Ordinance, on their property will be required to secure sign permits pursuant to Section 16-28 of the City of Atlanta Code of Ordinances.

Section 9: That Chapter 106, Article VIII be amended by creating a new section 106-808 to read as follows: This Ordinance shall become effective immediately.

Section 10: That Chapter 106, Article VIII be amended by creating a new section 106-809 to read as follows: All Ordinances, or parts of Ordinances, in conflict herewith are repealed.