

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF JOHNS CREEK, GEORGIA TO AMEND ARTICLE II OF CHAPTER 34 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE CODE OF THE CITY OF JOHNS CREEK, GEORGIA BY ADDING SECTION 34-26(C) TO PROVIDE FOR PENALTIES FOR VANDALISM OF GRAVE SITES AND CEMETERY PROPERTY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR ALL OTHER PURPOSES

WHEREAS, Section 1.12(b)(43) of the Charter for the City of Johns Creek states that the Johns Creek City Council shall have the authority “to exercise and enjoy all . . . powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the City and its inhabitants; to exercise all implied powers necessary to carry into execution all powers granted in th[e] Charter as fully and completely as if such powers were fully stated in th[e] Charter; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia;” and

WHEREAS, sometime between 1881 and 1905 the Macedonia Methodist African Church assumed ownership of the Macedonia Cemetery property; and

WHEREAS, the Macedonia Methodist African Church began using part of the property as a cemetery with marked burials noted as late as the mid-1980’s; and

WHEREAS, the Macedonia Cemetery was established on the east side of Medlock Bridge Road which is located behind the Medlock Corners shopping center; and

WHEREAS, the Macedonia Methodist African Church was vandalized by cutting the central support beam which caused the roof to collapse; the church building was eventually demolished and removed; and

WHEREAS, the Macedonia Cemetery has been unmaintained and deteriorated into disrepair over time compromising the ability to identify and preserve gravesites and markers; and

WHEREAS, in the mid-1990’s, Fulton County began to maintain the Macedonia Cemetery property after acquiring maintenance rights via the exercise of eminent domain; and

WHEREAS, on November 16, 2020, the Mayor and City Council unanimously approved the acquisition of the Macedonia Cemetery via fee simple ownership; and

WHEREAS, the Mayor and City Council sought to acquire the Macedonia Cemetery to preserve and protect the history, legacy and honor of all those buried on this sacred ground; and

WHEREAS, the Mayor and City Council desire the ability to legally preserve and protect all cemeteries from vandalism, defacing and/or desecration of graves sites and cemetery property.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Johns Creek that the Code of the City of Johns Creek, Georgia is hereby amended as follows.

SECTION I: Article II of Chapter 34 relating to Offenses and Miscellaneous Provisions is hereby amended by adding Section 34-26(c) to provide for penalties for defacing and/or desecrating grave sites and cemetery property, and will read as follows:

“Sec. 34-26. – Vandalism.

* * *

(c) *Cemetery property/grave sites.*

(1) It is unlawful to willfully:

a. Throw, place or put any refuse, garbage or trash in or on any cemetery.

b. Take away, disturb, vandalize, destroy or change the location of any stone, brick, iron or other material or fence enclosing a cemetery or gravesite without authorization of law or consent of the surviving spouse or next of kin of the deceased.

c. Take away, disturb, vandalize, destroy, or tamper with any shrubbery, flowers, plants or other articles planted or placed within any cemetery to designate where human remains are interred or to preserve and perpetuate the memory and name of any person, without authorization of law or the consent of the surviving spouse or next of kin.

(2) The provisions of this section shall not apply to:

a. Ordinary maintenance and care of a cemetery by the owner, caretaker, or other person acting to facilitate cemetery operations by keeping the cemetery free from accumulated debris or other signs of neglect.

b. A professional archaeologist as defined by O.C.G.A. § 36-72-2.”

SECTION II: It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Johns Creek, Georgia, and the codifier is authorized to make the specified deletions, insertions, additions, and to insert headings, article numbers and section numbers as and where appropriate.

SECTION III: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION IV: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

SECTION V: This Ordinance shall become effective immediately upon its adoption.

SO ORDAINED this _____ day of June, 2021.

Michael E. Bodker, Mayor

ATTEST:

Allison Tarpley, City Clerk

Approved as to form:

E. Ronald Bennett, Jr., City Attorney