

STATE OF GEORGIA

ORDINANCE NO. 2006-08-58

COUNTY OF FULTON

AN ORDINANCE TO AMEND CHAPTER 12 OF THE CODE OF ORDINANCES OF THE CITY OF SANDY SPRINGS BY REPLACING ARTICLE 1, GENERAL PROHIBITIONS, SECTION 2, OFFENSES AGAINST PUBLIC MORALS WITH ARTICLE 1, GENERAL PROVISIONS, SECTION 2, OFFENSES AGAINST PUBLIC MORALS, AS ATTACHED HERETO

BE IT RESOLVED by the City Council for the City of Sandy Springs, Georgia while in regular session on September 5, 2006 at 7:00 p.m. as follows:

SECTION 1. That the Ordinance relating to amending Chapter 12, Offenses and Violations is hereby adopted and approved; and is attached hereto as if fully set forth herein; and,

SECTION 2. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.; and,

SECTION 3. That the first reading of this Ordinance took place on June 6, 2006; and

SECTION 4. That the second reading of this Ordinance took place on August 15, 2006

SECTION 5. That an additional reading of this Ordinance took place on September 5, 2006.

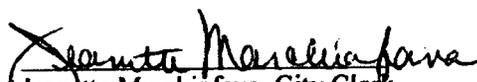
SECTION 4. That this Ordinance shall become effective upon its adoption.

ORDAINED this the 5th day of September, 2006.

Approved:


Eva Galambos, Mayor

Attest:


Jeanette Marchiafava, City Clerk

(Seal)



Amending Chapter 12, Offenses and Violations, Article 1: General Prohibitions, Section 2, Offenses against public morals:

Obscenity and Related Offenses

(a) A person commits the offense of distributing obscene material when he or she sells, lends, rents, leases, gives, advertises, publishes, exhibits, or otherwise disseminates to any person any obscene material of any description, knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so, provided that the word 'knowing,' as used in this section, shall be deemed to be either actual or constructive knowledge of the obscene contents of the subject matter; and a person has constructive knowledge of the obscene contents if he or she has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of the material; provided, however, that the character and reputation of the individual charged with an offense under this law, and, if a commercial dissemination of obscene material is involved, the character and reputation of the business establishment involved may be placed in evidence by the defendant on the question of intent to violate this law. Undeveloped photographs, molds, printing plates, and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(b) Material is obscene if:

(1) To the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion;

(2) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and

(3) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined in subparagraphs (A) through (E) of this paragraph:

(A) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

(B) Acts of masturbation;

(C) Acts involving excretory functions or lewd exhibition of the genitals;

(D) Acts of bestiality or the fondling of sex organs of animals; or

(E) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

(c) Any device designed or marketed as useful primarily for the stimulation of human genital organs is obscene material under this Code section.

(d) Material not otherwise obscene may be obscene under this Code section if the distribution thereof, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of their prurient appeal.

(e) It is an affirmative defense under this Code section that selling, lending, renting, leasing, giving, advertising, publishing, exhibiting, or otherwise disseminating the material was restricted to:

(1) A person associated with an institution of higher learning, either as a member of the faculty or a matriculated student, teaching or pursuing a course of study related to such material; or

(2) A person whose receipt of such material was authorized in writing by a licensed medical practitioner or psychiatrist.

(f) A person who commits the offense of distributing obscene material shall be guilty of a misdemeanor of a high and aggravated nature.