

ORDINANCE

[To Adopt the Proposed Sections to the City of Prattville Code of Ordinances, Article IV.]

{Sponsored By: Councilor _____}

WHEREAS, there are documented instances where adults, including those in local government, have given minors access to obscene materials in the City of Prattville and elsewhere; and

WHEREAS, the City of Prattville has a compelling interest in protecting public decency and the innocence of children; and

WHEREAS, the citizens of Prattville expect the City Council to hold the employees of the City and its departments accountable for violation of the public trust;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Prattville, Alabama as follows:

THAT the City of Prattville Code of Ordinances, Article IV, Section 50-99, Section 50-100, and Section 50-101 be created as shall read as follows:

ARTICLE IV. - OFFENSES INVOLVING PUBLIC MORALS

Sec. 50-99. - Definitions

As used in Article IV, the following terms shall have the following meanings respectively ascribed to them by this section:

ADULT BOOKSTORES and ADULT VIDEO STORES. A commercial establishment in which is offered for sale or rent any book, video, film, or other medium which in the aggregate constitutes substantially all of its stock or inventory which depicts sexual conduct as defined herein.

ADULT MOVIE HOUSE. A place where obscene "adult films" depicting sexual conduct are shown.

ADULT-ONLY ENTERTAINMENT. Any commercial establishment or private club where entertainers, employees, dancers, or waiters appear nude or semi-nude.

BREAST NUDITY. The showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

DISPLAY FOR SALE. To expose, place, exhibit, show, or in any fashion display any material for the purpose of the sale of such material to any person in a manner that a minor can physically examine or see the material.

DISSEMINATE PUBLICLY. To expose, place, perform, exhibit, show or in any fashion display, in any location, public or private, any material in a manner that the material can either be readily seen and its content or character distinguished by normal unaided vision or be physically examined, by viewing or examining the material from any public place or any place to which members of the general public are invited.

DISTRIBUTE. To import, export, sell, rent, lend, transfer possession of or title to, display, exhibit, show, present, provide, broadcast, transmit, retransmit, communicate by telephone, play, orally communicate, or perform.

EXPORT. To send or cause to be sent outside of the city from inside the city.

FOR ANY THING OF PECUNIARY VALUE. In exchange for, in return for, or for any consideration consisting of, whether wholly or partly, either of the following: a. Any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible; or. b. Any offer or agreement to pay, furnish or provide any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible.

GENITAL NUDITY. The showing of the human male or female genitals or pubic area.

HARMFUL TO MINORS. The term means all of the following:

a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors.

b. The material depicts or describes sexual conduct, breast nudity, or genital nudity, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors.

c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

KNOWINGLY. The term means knowingly, as defined by Section 13A-2-2 Code of Alabama, doing an act involving a material when the person knows the nature of the material.

KNOWS THE NATURE OF THE MATERIAL. A person knows the nature of the material when any one of the following exists:

a. The person knows the nature of the material.

b. The person has reason to know the nature of the material.

c. The person has a belief or reasonable ground for belief as to the nature of the material which warrants further inspection or inquiry of the character and content of the material.

MATERIAL. Any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, motion picture, film, video tape, pictorial representation, depiction, image, electrical or electronic reproduction, broadcast, transmission, telephone communication, sound recording, article, device, equipment, matter, oral communication, live performance, or dance.

MINOR. Any unmarried person under the age of 18 years.

OBSCENE. The term means all of the following:

a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest.

b. The material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and. c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

PERSON. Any individual and, except where inappropriate, any partnership, firm, association, corporation, or other legal entity.

PRODUCE. Create, make, write, film, produce, reproduce, direct, or stage.

RECKLESSLY. The term means recklessly, as defined by Section 13A-2-2 of the Code of Alabama, doing an act involving a material when the person knows the nature of the material.

SADO-MASOCHISTIC ABUSE. The term means either of the following:

- a. Flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume.
- b. The binding or physical restraining of a person who is nude or clad in undergarments or in a revealing or bizarre costume in an act of sexual stimulation.

SEXUAL CONDUCT. The term means any of the following:

- a. Any act of sexual intercourse, masturbation, urination, defecation, lewd exhibition of the genitals, sado-masochistic abuse, bestiality, or the fondling of the sex organs of animals.
- b. Any other physical contact with a person's unclothed genitals, pubic area, buttocks, or the breast or breasts of a female, whether alone or between members of the same or opposite sex or between a human and an animal, in an act of sexual stimulation, gratification or perversion.
- c. Any sexual or gender oriented material that exposes minors to persons who are dressed in sexually revealing, exaggerated, or provocative clothing or costumes, or are stripping, or engaged in lewd or lascivious dancing, presentations, or activities, including but not limited to topless, go-go, or exotic dancers, or male or female impersonators, commonly known as drag queens or drag kings. This sexual conduct is prohibited in K-12 public schools, public libraries, and in other public places where minors are present.

SEXUAL INTERCOURSE. Intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, and whether between persons of the same or opposite sex or between a human and an animal.

WHOLESALE. A person who distributes material for the purpose of resale or commercial distribution at retail."

PUBLIC EMPLOYEE. Any person employed by the City of Prattville or their instrumentalities, including governmental corporations and authorities, and including persons employed by the Autauga-Prattville Public Library.

Section 50-100. - Material Harmful to Minors

(1) It shall be a violation of this code for any person to knowingly or recklessly distribute to a minor, possess with intent to distribute to a minor, or offer or agree to distribute to a minor any material which is harmful to minors.

(2) It shall be a violation of this code for any person to openly and knowingly display for sale at any business establishment frequented by minors, or any other place where minors are or may be invited as part of the general public, including a public library, any material which is harmful to minors or to hire or employ a minor in an establishment that displays or disseminates material containing nudity or sexual conduct; provided, however, that a person shall not be deemed to have violated the provisions of this subsection, relating to display for sale, by displaying material harmful to minors in sealed wrappers or behind opaque covers commonly known as "blinder racks" so that in either event the material is located at a height of not less than five and one-half feet from the floor, the lower two-thirds of the material is concealed from view, the content of such material is not available for inspection by minors, and other reasonable efforts are made to prevent minors from perusing the material.

(3) The following shall be affirmative defenses to a charge of violating this section as it may relate to a particular minor:

a. The minor exhibited to the defendant, his agent or employee a draft card, driver's license, birth certificate, marriage license or other governmental document purporting to show that such minor was not an unmarried person under the age of 18 years and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the minor was an unmarried person under the age of 18.

b. A parent or legal guardian accompanied the minor or consented to the act charged.

c. The defendant is the parent or legal guardian of the minor.

d. The act charged was done for a bona fide medical, scientific, educational, legislative, judicial or law enforcement purpose.

(4) It shall be a violation of this code for any person to operate an adult bookstore, adult movie house, adult video store, or other form of adult-only enterprise within 1,000 feet of a church, place of worship, church bookstore, public park, public housing project, daycare center, public or private school, college, recreation center, skating rink, video arcade, public swimming pool, private residence, or any other place frequented by minors.

Section 50-100. - Public Employees Prohibited from Providing Minors with Access to Certain Materials

It shall be a violation of this code for any public employee, including an employee or agent of the Autauga-Prattville Public Library to allow a minor access to any material regarding sexual intercourse, sexuality, sexual orientation, or gender identity, without the express written consent of the minor's parent or guardian.

Any public employee found to have acted in violation of this section shall be subject to termination and barred from future employment with the city.

THAT the sections of this ordinance are severable. If any portion of this ordinance is deemed unlawful by a court of appropriate jurisdiction, the remainder of this ordinance shall remain in effect.

THAT this Ordinance shall be known as the Prattville Anti-Obscenity Ordinance.

THIS Ordinance shall become effective upon its passage and the execution as provided by law.

Adopted this ___ Day of _____, 2023

By: Lora Lee Boone, President
Prattville City Council