

AN ORDINANCE REGULATING OBSCENE MATTER: PUBLICATION, PRINTING
MANUFACTURE, SALE, DISTRIBUTION, ADVERTISEMENT, EXHIBITION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAMILTON, ALABAMA, AS FOLLOWS:

- (A) The following words and terms, when used in this section shall, for the purpose of this section, have the meanings respectively ascribed to them by this subsection:
- (1) "Obscene" means that to the average person, applying contemporary community standards, the work or matter, taken as a whole, appeals to the prurient interest; the work or matter depicts or describes, in a patently offensive way, sexual conduct; and the work or matter, taken as a whole, lacks serious literary, artistic, political or scientific value.
 - (2) "Work" or "Matter" means any books, magazine, newspaper or other printed or written material, or any picture, drawing, photo, video, motion picture, computer or other pictorial representation or any statue or figure or any recording transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines or materials.
 - (3) "Sexual conduct" shall be construed to mean any one of the following:
 - (a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.
 - (b) Patently offensive representations or descriptions of masturbation, excretory functions, and lewd exhibition of the genitals.
 - (4) "Person" means any individual, partnership, firm, association, corporation or other legal entity.
 - (5) "Distribute" means to transfer possession of, whether with or without consideration.
 - (6) "Knowingly" means having actual or constructive knowledge of the character and content of the subject matter. A person has constructive knowledge if a reasonable inspection under the circumstances would disclose the nature of the subject matter and the failure to inspect if for the purpose of avoiding such disclosure.
 - (7) "City" means City of Hamilton, a municipality in the State of Alabama.
- (B) It shall be unlawful for any person to knowingly send or cause to be sent or bring or cause to be brought into this city or the police jurisdiction thereof, for sale or distribution, any obscene matter.
- (c) It shall be unlawful for any person to knowingly publish, print, exhibit, distribute or have in his possession with intent to distribute, exhibit, sell or offer for sale, in the city or the police jurisdiction thereof, any obscene matter.
- (D) It shall be unlawful for any person, with knowledge that a person is a minor under nineteen (19) years of age, or who, while in possession of such facts that he should reasonably know that such person is a minor under nineteen (19) years of age, to knowingly send or cause to be sent, exhibited, distributed, sold or offer for sale, any obscene matter to any such minor under nineteen (19) years of age in the city or the police jurisdiction thereof.
- (E) It shall be unlawful for any person, with knowledge that a person is a minor under nineteen (19) years of age, or who, while in possession of such facts that he should know that such person is a minor under nineteen (19) years of age, to hire, employ, or use minor to do or assist in doing of any act described in subsections (B), (C) or (D) of this section.
- (F) It shall be unlawful for any person to write or create advertising for, or otherwise promote the sale or distribution of matter represented or held out by him to be obscene.
- (G) It shall be unlawful for any person to knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, to require that the purchaser or consignee receive any matter reasonably believed by such purchaser or consignee to be obscene, or to deny or threaten to deny a franchise, or to revoke or threaten to revoke, or to impose any penalty, financial or otherwise, by reason of the failure of any such person to accept such matter, or by reason of the return of such matter.
- (H) Any person violating any of the provisions of this section or doing any act prohibited by any provision of this section, or failing to do any act required of such person by any provision of this section, or doing any act, declared by this section to be unlawful, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Thousand dollars (\$1,000.00) or by imprisonment in the city jail for not more than six (6) months, either or both at the discretion of the City Judge. Each day any violation of this section continues shall constitute a separate offense.

Adopted and Approved this 16th day of August, 1999.