

ORDINANCE NO. 2011-0404

AN ORDINANCE OF THE CITY OF MCINTYRE GEORGIA  
PERTAINING TO PUBLIC INDECENCY

WITNESSETH:

WHEREAS, under the powers granted to the City of McIntyre for the protection of the public health, safety and welfare of the citizens and for the regulation of public indecency, it is necessary to amend the Code of Ordinances and:

WHEREAS, the Mayor and Council have determined that it is fit and proper to amend the Code of Ordinances to accomplish such purpose:

NOW THEREFORE, pursuant to the authority vested in the Council of the City under the Charter the Council hereby ordains: That the Code of the City of McIntyre, Georgia, is hereby amended to read as follows:

WHEREAS, the laws of the State of Georgia prohibit public indecency and allow local laws in addition thereto; and

WHEREAS, though there is a state law prohibiting public indecency, that law allows for some behavior that is considered indecent; and

WHEREAS, the City of McIntyre, Georgia finds that the exposure of a person's buttocks, genital area, or undergarments is offensive and indecent; and

WHEREAS, there is evidence that indicates that wearing sagging pants is injurious to the health of the wearer as it causes an improper gait;

NOW THEREFORE, BE IT ORDAINED by the City of McIntyre, Georgia that the Code of Ordinances is hereby amended by adding thereto a new section titled "Public Indecency Prohibited" to read as follows:

Public Indecency Prohibited

- (a) A person commits the offense of public indecency when he or she performs any of the following acts in a place where a person should reasonably expect to be in view of the public:
- (1) An actual or simulated act of sexual intercourse or masturbation;
  - (2) Exposure of the genitals;
  - (3) A lewd appearance in a state of partial or complete nudity;
  - (4) A lewd caress or indecent fondling of the body of another person;
  - (5) A lewd caress or indecent fondling of the sexual organs of any person including oneself;

- (6) Urination or defecation; or
  - (7) Appears wearing pants or skirts more than three inches below the top of the hips (crest of the ilium) exposing the skin or undergarments.
- (b) Fines and penalties – A citation shall be issued to the offender and the person shall be subject to a penalty of not less than fifty dollars on the first offense and not more than two hundred dollars for each subsequent offense. In addition to the fine, the court may order such a person to participate in up to forty hours of court approved community service activities. Violator shall not be subject to arrest or the same authority as the superior court to enforce obedience to its orders, judgments and sentences.
- (c) Defenses – It is a defense under this subchapter if it is determined after a hearing or trial, that a person was exercising rights protected by the Federal or State Constitution. Any defense under this subsection must be asserted prior to any hearing or trial in the matter.

BE IT FURTHER ORDAINED that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of the ordinance are hereby declared severable.

BE IT FURTHER ORDAINED that all ordinances in conflict herewith are hereby repealed.

Effective Date.

This Ordinance shall become effective upon its reading and adoption as prescribed by the Charter.

SO ORDAINED this 4<sup>th</sup> day of April 2011.

  
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Mayor

  
\_\_\_\_\_  
City Clerk

**MCREE & ASSOCIATES**  
ATTORNEY AT LAW  
LAFAYETTE SQUARE  
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March 14, 2011

Ms. Pam Roberts  
City Clerk, McIntyre, Georgia  
P.O. Box 38  
McIntyre, GA 31054-0038

Re: Public Indecency Ordinance

Dear Pam:

Enclosed herewith is the Public Indecency Ordinance that I have prepared on behalf of the city. Please distribute copies of this to the Mayor and City Council members. This should be voted on at the meeting on Wednesday.

With kindest regards, I remain

Sincerely,



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J. David McRee

JDM/as

Enclosure