

ORDINANCE TO REPEAL THE OTHER "DC-6"

AN ORDINANCE BY MATTHEW CHARLES CARDINALE

AN ORDINANCE TO REPEAL CITY OF ATLANTA CODE OF ORDINANCES, PART II (ORDINANCES), CHAPTER 106 (OFFENSES AND MISCELLANEOUS PROVISIONS), ARTICLE VII (DRUG FREE ZONES), DIVISION 1 (COMMERCIAL ZONES), SECTION 106-405 (PROHIBITED ACTS), TO CLARIFY THAT THERE IS NO CRIME RELATED TO MERELY BEING PHYSICALLY PRESENT IN A KNOWN DRUG AREA; TO RE-DESIGNATE SECTION 106-405 AS "RESERVED"; AND FOR OTHER PURPOSES.

WHEREAS, on March 19, 2007, the Atlanta City Council repealed a provision in the City of Atlanta Code of Ordinances that was commonly known as "DC-6" or "Disorderly Conduct 6," out of recognition that said provision was unconstitutional per the Constitution of the State of Georgia; and

WHEREAS, the former DC-6 provision purported to make it illegal to be physically present in a place where illegal drugs were known to be frequently sold or possessed; and

WHEREAS, the Georgia appellate courts have consistently found that mere presence in a known drug area is not enough to obtain a criminal conviction; and

WHEREAS, over eleven years have elapsed since the repeal of DC-6; and

WHEREAS, it has come to light that, contained in the City's Code of Ordinances, Part Two, Chapter 106, is another provision with nearly identical language as the stricken provision; and

WHEREAS, this provision, which relates to Drug-Free Commercial Zones, purports to create a crime that cannot result in a successful prosecution under the Georgia Constitution; and

WHEREAS, the City desires to correct this issue to create consistent expectations and remove the possibility of wrongful conviction for a non-crime;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Part II (Ordinances), Chapter 106 (Offenses and Miscellaneous Provisions), Article VII (Drug Free Zones), Division 1 (Commercial Zones), Section 106-405 (Prohibited Acts), which currently reads as follows:

“(a) It shall be unlawful for any person within the designated drug-free commercial zones of the City of Atlanta to engage in or be in or about any place where gaming or the illegal sale or possession of alcohol beverages or narcotics or dangerous drugs is practiced, allowed or tolerated, or for the purpose of or intent to engage in gaming or the purchase, use, possession or consumption of such illegal drugs, narcotics or alcoholic beverages.

(b) Any person violating this code section shall be punished pursuant to section 1-8 of this Code as it shall be amended from time to time.

(c) A person is subject to exclusion for a period of six months from the public streets, sidewalks, and other public ways in all designated drug-free commercial zones designated in article VII of chapter 106 of the Code if that person has been found guilty and convicted of violating sub-paragraph (a) of this section.”

is hereby repealed and designated as “Reserved.”

SECTION 2: Except as otherwise provided, the provisions of Section 1 are effective as of the date of adoption of this legislation.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.