

ORDINANCE TO REPEAL CRIMINALIZATION OF "MOVING HOUSEHOLD GOODS AT NIGHT"

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 III (OFFENSES AGAINST PUBLIC ORDER), SECTION 106-88 (MOVING HOUSEHOLD GOODS AT NIGHT); TO RE-DESIGNATE SECTION 106-88 AS "RESERVED"; AND FOR OTHER PURPOSES.

WHEREAS, for the last several years the City Council and the Public Safety/Legal Administration Committee have been engaged in a conversation about criminal justice reform, which has included taking another look at several municipal provisions that criminalize certain activities; and

WHEREAS, in November 2016, one Councilmember introduced legislation to revisit the entire Chapter 106 (Offenses and Miscellaneous Provisions); and

WHEREAS, in March 2017, the City Council adopted 17-O-1130, which amended Chapter 106 to strike several provisions at the recommendation of the Law Department due to state preemption issues, constitutionality issues, policy issues, and other issues; and

WHEREAS, in October 2017, the City Council amended Chapter 106 to remove the possibility of jail time for minor cannabis possession under municipal code; and

WHEREAS, there is unfinished work to do with regard to Chapter 106; and

WHEREAS, the moving of household goods at night is a victimless crime that is still criminalized under Chapter 106; and

WHEREAS, there are already state laws and regulations that address the safety and welfare issues that might be involved with the moving of large or bulky items by automobile; and

WHEREAS, the criminalization of moving household goods at night--by targeting household goods but not other goods based on size, weight, or bulkiness--clearly targets working families who are residential tenants; and

WHEREAS, the criminalization of moving household goods at night--by targeting residential origins and residential destinations--clearly targets working families who are residential tenants; and

WHEREAS, many income-earners who comprise the breadwinners of Atlanta's working families are not available to move household goods during daylight hours because they are, in fact, working during those times; and

WHEREAS, state law already provides for adequate civil remedies for lessors who have unresolved civil disputes with residential tenants when they move out; and

WHEREAS, it is not the job of the municipal police to make it easier for residential lessors to surveil their tenants; and

WHEREAS, the section is enforced so infrequently, and is currently written so broadly as to encompass such a wide range of goods as to raise the likelihood of selective enforcement; and

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 III (Offenses against Public Order), Section 106-88 (Moving Household Goods at Night), which currently reads as follows:

"It shall be unlawful for any person to move or transport household goods and furnishings from one place of residence to another between the hours of sunset and sunrise without first having obtained a permit to do so from the police chief. All applications for permits shall be filed more than 24 hours prior to the time of actual moving."

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.