

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL AND EMAIL: attysparkman@blomand.net

Lynn Omohundro
City of Sparta, City Attorney
6 Liberty Square, P.O. Box 30
Sparta, TN 38583

Re: Unconstitutional Blasphemy Ordinances

Dear Attorney Omohundro:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding unconstitutional laws currently on the books in the City of Sparta. We were contacted by a concerned citizen. FFRF is a national nonprofit organization with over 36,000 members, including almost 450 members and a state chapter in Tennessee. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Sparta's municipal code contains two ordinances that make blasphemous language unlawful.¹ Municipal ordinance 11-919 pertains to "Offensive handbills, signs prohibited." Section 2 of this ordinance deems that handbills and signs "[w]hich [are] offensive to public morals or decency, or which contain[] blasphemous, obscene, libelous or scurrilous language" are prohibited. Additionally, ordinance 3-301 declares "blasphemous language" as one example of disturbances that are unlawful in "any trial before the city court." Parentheticals after these sections indicate that the ordinances have been in the code since at least 1978.

These ordinances, like all blasphemy laws, violate the First Amendment. The Supreme Court has long recognized that the First Amendment "mandates governmental neutrality between religion and religion, and between religion and nonreligion." *McCreary Cnty. v. ACLU*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). These laws promote religion over nonreligion and, specifically, favor religions idolizing a god, while they suppress the free exercise of those who would ridicule those who place a god on a pedestal.

These laws also violate the First Amendment's protection of the freedom of speech by punishing people for merely using certain language without an appropriate constitutional justification. While it may be permissible to put a restriction on speech that is calculated to cause a breach of the peace or an assault, it is not permissible to extend this restriction only to speech that ridicules a god or a religious sentiment.

¹ <https://www.mtas.tennessee.edu/system/files/codes/combined/Sparta-code.pdf>

In a challenge to the Pennsylvania blasphemy statute, which prohibited corporate names containing “[w]ords that constitute blasphemy, profane cursing or swearing or that profane the Lord's name,” a federal court found the statute a violation of the Free Speech Clause of the First Amendment because it restricted speech on the basis of viewpoint. *Kalman v. Cortes*, 723 F. Supp. 2d 766, 800 (E. D. Pa. 2010).

As the Supreme Court summed it up, “from the standpoint of freedom of speech and the press, it is enough to point out that the state has no legitimate interest in protecting any or all religions from views distasteful to them which is sufficient to justify prior restraints upon the expression of those views. It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine, whether they appear in publications, speeches, or motion pictures.” *Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 505 (1952).

More recently, both houses of Congress passed resolutions calling for a global repeal of blasphemy laws.² Both versions of the resolution “recognize[d] that blasphemy, heresy, and apostasy laws inappropriately position governments as arbiters of religious truth and empower individuals to impose religious dogma on individuals or minorities through the power of the government.” Given the position of our federal government on blasphemy laws, the Sparta ordinances would not survive a legal challenge.

Just having these ordinances in Sparta’s municipal code is an unconstitutional endorsement of religion and alienates those they are intended to control and silence. Almost thirty percent of Americans today are nonreligious.³ The outdated municipal code should reflect the diversity of Sparta’s population.

We ask that the City remove the unconstitutional restraints concerning blasphemous language in its municipal code. Please inform us in writing of the steps you are taking to resolve this First Amendment violation. Thank you for your time and attention to this matter.

Sincerely,



Karen M. Heineman
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

² <https://www.congress.gov/116/crec/2020/12/07/CREC-2020-12-07-pt1-PgH6864.pdf>;
<https://www.congress.gov/116/crec/2020/12/19/CREC-2020-12-19-pt1-PgS7850-2.pdf>.

³ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.