

ORDINANCE 9-91

AN ORDINANCE OF THE TOWNSHIP OF CLIFFORD, SUSQUEHANNA COUNTY, PENNSYLVANIA, PROHIBITING THE OPERATION THROUGHOUT THE MUNICIPALITY OF UNDESIRABLE BUSINESSES, INCLUDING BUSINESSES DEALING IN OBSENE AND OTHER SEXUAL MATERIALS, ADULT BOOK TORES, ADULT MOVIE HOUSES AND MASSAGE PARLORS, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE SAME.

BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF CLIFFORD, SUSQUEHANNA COUNTY, PENNSYLVANIA, AS. FOLLOWS:

Section I: OBSCENE AND OTHER SEXUAL MATERIALS.

A. Offenses Defined

1. Display or cause or permit the display of any explicit sexual materials as defined in subsection (c), in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen, marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare, or in any business or commercial establishment where minors, as part of the general public or otherwise, are or will probably be exposed to view all or any part of such materials;

2. Sell, lend, distribute, exhibit, give away or show any obscene materials to any person 17 years of age or older or offer to sell, land, distribute, exhibit or give away or show, or have in his possession with intent to sell, lend, distribute, exhibit or give away or show any obscene materials to any person 17 years of age or older, or knowingly advertise any obscene materials in any manner;

3. Design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials;

4. Write, print, publish, utter or cause to be written, printed, published or uttered any advertisement or notice or any kind giving information, directly or

indirectly, stating or purporting to state where, how from whom, or by what means any obscene materials can be purchased, obtained or had; or

5. Hire employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this subsection.

B. Definitions. As used in this section the following words and phrases shall have the meanings given to them in this subsection:

1. Community. For the purpose of applying the contemporary community standards in this section, community means the Township of Clifford.

2. Knowing. As used in subsection (A), knowing means having general knowledge of, or reason to know or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any materials described therein which is reasonably susceptible of examination by the defendant.

3. Obscene materials. Any literature, including any book, magazine, pamphlet, newspaper, story paper comic book or writing, and any figure, visual representation, or image including any drawing, photograph, picture or motion picture if;

- a. the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest;
- b. the subject matter depicts or describes in a patently offensive way, sexual conduct of a type described in this section; and
- c. the subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value

4. Sexual Conduct. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibition of the genitals.

5. Transportation Facility. Any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, rail, motor vehicle or any other method, including aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations.

C. Dissemination of Minors. No person shall knowingly disseminate by sale, loan or otherwise explicit sexual materials to a minor. Explicit Sexual Materials as used in this subsection, means materials which are obscene or:

1. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or

2. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1), or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

D. Admitting Minor To Show: It shall be unlawful for any person knowingly to exhibit for monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited, a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors.

E. Definitions. As used in subsections (C) and (D) of this section:

1. Minor means any person under the age of 17 years.

2. Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a

fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

3. Sexual Conduct means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be female, breast.

4. Sexual Excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

5. Sadomasochistic Abuse means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

6. Harmful to Minor means that quality of any description or representation in whatever form, or nudity of any description or representation in whatever form, or nudity, sexual conduct, sexual excitement, or sadomasochistic abuse.

a. predominantly appeals to the prurient, shameful, or morbid interest of minors, and

b. is patently offensive to prevailing standards in adult community as a whole with respect to what is suitable material for minors, and

c. is utterly without redeeming social importance for minors.

7. Knowingly means having general knowledge of or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both.

a. the character and content of any material described herein which is reasonably susceptible or examination by the person charged with violating this ordinance; and

b. the age of the minor: provided, however that an honest mistake shall constitute an excuse from liability hereunder is the person charged with violating this ordinance made a reasonable bona fide attempt to ascertain the true age of such minor.

F. Exemptions. Nothing in this section shall apply to any recognized historical society or museum accorded charitable status by the Federal Government, any public library, or library of any school, college or university or any archive of library under the supervision and control of the Commonwealth or political subdivision.

SECTION II: MASSAGE PARLORS, ADULT BOOK STORES, ADULT MOVIE HOUSES

A. Offenses Defined.

1. No person shall engage in the operation of any massage parlor in which any of the following activities are carried on:

a. The treatment of any person, of the opposite sex, except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and the hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be given to inspection by the Township Supervisors of their appointee. The requirements of this provision shall not apply to treatments given in the residence of a patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium.

b. The massage of or physical contact with the sexual or genital parts of one person by any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

c. The failure to conceal with a fully opaque covering, the sexual or genital parts of the body of any person.

2. No person shall engage in the operation of any adult book store within the Township of Clifford.

3. No person shall be engage in the operation of any adult book store within the Township of Clifford.

B. Definitions. As used in this section and in this ordinance generally, the following words and phrases shall have the meanings given to them in this subsection:

1. Massage. Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or have any other consideration or any gratuity therefor.

2. Massage Parlor. Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage.

3. Adult Book Stores. An establishment which has a substantial or significant portion of its stock in trade, books, magazines, or other periodicals and which excludes minors by virtue of age.

4. Adult Movie Houses. An enclosed building with a capacity of 50 or more persons used for presenting motion pictures, films, movies, slides, or similar photographic reproductions for observation by persons therein, and which excludes minors by virtue of age.

SECTION III. PENALTY FOR VIOLATION

Any person, partnership or corporation who or which shall violate any provision of this ordinance shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300) and costs of prosecution and , in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided, however, each day that a violation is continued shall constitute a separate offense.

SECTION IV. SEVERABILITY

The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

Adopted by the Board of Supervisors of the Township of Clifford, the 14th day of September 1991.

Attest:

Signed:

Robert W. Kochmer  
Secretary

T.R. Williams  
Adam Baron