

SEXUALLY EXPLICIT MATERIAL CONTROL
TOWNSHIP OF PINCONNING, MICHIGAN

Ordinance Number: 15-89A; Effective August 10, 1989

WHEREAS, the Township Board of Pinconning Township deems it necessary for the health, safety, and general welfare and morals of the residents of Pinconning Township to prevent and prohibit the showing, sale, or offering of sale of sexually explicit materials within the Township of Pinconning.

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

SECTION 1. TITLE.

This Ordinance shall be known and cited as the Offensive Sexually Explicit Material Control Ordinance.

SECTION 2. PURPOSE.

This Ordinance is enacted by the Township to control the public display of pictorial offensive sexually explicit material within the confines of Pinconning Township.

SECTION 3. PROHIBITIONS; EXCEPTIONS.

It shall be unlawful for any person acting in a managerial capacity or being the owner, proprietor, operator or manager of a business, or projectionist or other type of employee to knowingly place offensive sexually explicit material upon public display for purposes of sale, entertainment or distribution, or fail to take prompt action to remove such display from property in his possession or under his control after learning of its existence. The prohibition of this section shall not apply to broadcasts or telecasts through facilities licensed under the Federal Communications Act. Nothing herein contained is intended to include or proscribe any material which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

SECTION 4. DEFINITIONS.

For purposes of this Ordinance:

(a) "Sexually explicit material" means any picture, photograph, drawing, sculpture, motion picture, film, or other visual representation or image depicting uncovered or less than opaquely covered post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual inter-

course, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections.

(b) "Offensive" means that the work in which the representations appear, taken as a whole, appeals to the prurient interest or patently depicts or portrays the prohibited sexually explicit material.

(c) "Public display" in the context of films or motion pictures, means the projection of said films or motion pictures on any viewing screen inside or outside a completely enclosed building or theater. In the context of photographs, drawings, sculptures, or other visual representations, "public display" shall mean the placing of materials within the definition of subparagraphs "a" and "b" on or in a newsstand, display rack, window, showcase, display case or similar place so that said material is easily visible from a public thoroughfare, from the property of others, from a common walk, or mall, or from that portion of the interior of places of business generally open to minors at the time of such placing.

(d) "Knowingly" means to have knowledge of the contents, character or nature of the work in which the representations appear.

SECTION 5. PENALTY.

Every person who violates or refuses to comply with any section of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, he or she shall be punishable by a fine of not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment for not to exceed ninety (90) days, or both, in the discretion of the sentencing judge. Each day during which a violation continues shall be deemed a separate offense. In addition to the criminal sanctions herein provided, the Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.

SECTION 6. VALIDITY.

Should any portion of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, such portion thereof shall not be deemed to affect the validity of any other part or portion thereof.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall be effective August 10th, 1989 and shall be published once in a newspaper circulating in Pinconning Township, Bay County, Michigan, and shall become effective thirty (30) days after such publication.

Adopted at a regularly scheduled meeting of the Township Board of the Township of Pinconning held at the Township Hall on the 10th day of July, 1989.

YAYS:

R. Tillery
B. Kleiman
R. Doan
My. Bergeron
L. Givens

NAYS:

CERTIFICATION

The undersigned being the duly elected and serving Clerk of the Township of Pinconning does hereby certify the foregoing ordinance as duly adopted at a regularly scheduled meeting of the Township Board held at the Township Hall on the 10th day of July, 1989.

Leroy Givens
Township Clerk

Prepared By:
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