

SEXUALLY EXPLICIT MATERIALS, WRITINGS
AND PERFORMANCES CONTROL
TOWNSHIP OF PINCONNING, BAY COUNTY, MICHIGAN

Ordinance Number: 17-89A; Effective August 10th, 1989

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

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

SECTION 1. TITLE.

This Ordinance shall be known as and cited as the Obscene Materials, Writings and Performances Control Ordinance.

SECTION 2. PURPOSE.

This Ordinance is enacted by the Township to prevent and prohibit the public display of obscene materials, writings and performances as defined herein and as defined by state statute.

SECTION 3. DEFINITIONS.

As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) Obscene: To an average person applying contemporary community standards:

(1) The predominant appeal of the matter, taken as a whole, is to prurient interest;

(2) The matter depicts or describes, in a patently offensive manner, sexual conduct defined by the statutes of the State of Michigan; and

(3) The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

(b) Person: Any individual, partnership, firm, association, corporation or other legal entity.

(c) Disseminate: To transfer possession of, with or without consideration.

(d) Knowingly: Being aware of the character and the content of the material.

(e) Nudity: The showing of the human male or female genitals or pubic area with less than a fully opaque covering, or the depiction of covered male genitals in a discernibly turgid state.

(f) Performance: Any preview, play, show, skit, film, dance, or other exhibition performed before an audience.

(g) Available to the public: That the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance.

(h) Service to patrons: The provision of services to paying guests in establishments providing food and beverages, including but not limited to: hostessing, hatchchecking, cooking, bartending, serving, table setting and clearing, waitering and waitressing, and entertaining.

SECTION 4. PROHIBITED OBSCENE CONDUCT.

It is unlawful for any person to:

(a) Knowingly disseminate, distribute or make available to the public any obscene material; or

(b) Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or exhibition utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or

(c) Knowingly engage or participate in any obscene performance made available to the public; or

(d) Provide any service or performance to patrons in such a manner as to expose to public view:

(1) His or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(2) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

(3) Any portion of the female breast at or below the areola thereof; or

(e) Knowingly promote the commission of any of the above listed unlawful acts.

SECTION 5. PENALTY.

Any person, firm or corporation violating any provision of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) and confined to the county jail for not more than ninety days, or both, at the discretion of the court, for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

SECTION 6. NUISANCE.

In addition to any other penalty provided for herein, violation hereof shall be deemed to be a nuisance and such nuisance may be abated by appropriate action instituted in the Circuit Court for the County of Bay, by or on behalf of the Township.

SECTION 7. SEVERABILITY.

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications.

This ordinance shall be published in a newspaper of general circulation within the Township within ten (10) days after its adoption 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
G. K. Leirhan
R. Doan
M. Bergeron
S. Givater

NAYS:

