

BUFFALO TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 51

ESTABLISHING A PORNOGRAPHY ORDINANCE; PENALTIES FOR
VIOLATIONS THEREOF.

I. Definitions

For the purpose of this Chapter, the words and phrases set forther below shall have the meaning respectively ascribed to them:

1. AUDIENCE - one or more PERSONS who are permitted to view a PERFORMANCE for valuable consideration of in or from a public a place.
2. DISPLAY PUBLICLY - the exposing, placing, posting, exhibiting, or, in any fashion, displaying in any location, whether public or private, MATERIAL or a PERFORMANCE in such a manner that it may be readily seen in its content or character distinguishing by viewing it in or from a PUBLIC PLACE OR VEHICLE.
3. DISSEMINATE - to manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present MATERIAL or to offer or agree to do the same, or to have in one's possession with intent to do the same.
4. KNOWING - having knowledge of or reason to know or a belief or ground for belief which warrants further inspection or injury of the character and content of any MATERIAL described therein is reasonably susceptible of examination by the defendant.
5. LEWD MATERIAL - any MATERIAL or PERFORMANCE in which all of the following elements are present:
 - (a) Considered as a whole by the average, PERSON, applying the contemporary community standards of the Commonwealth of Pennsylvania, it appeals to the PRURIENT INTEREST in sex; and

- (b) It depicts, describes or represents in a patently offensive way, SEXUAL CONDUCT, as hereinafter defined; and
 - (c) Taken as a whole, it lacks serious literary artistic, political or scientific values.
- 6. MATERIAL - any printed matter, visual representation or sound recording and includes, but, is not limited, to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensional forms, sculptures and phonograph, tape or wire recordings.
- 7. NUDITY - uncovered or less than opaquely covered, post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernible turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
- 8. PANDER - advertising or propagandizing in connection with the sale of MATERIAL, the offering of a service or the presentation or exhibition of a PERFORMANCE by appealing to the PRURIENT INTEREST of potential customers.
- 9. PERFORMANCE - any live or reproduced exhibition including, but not limited to, any play, motion picture film, dance or appearance presented to or performed before an AUDIENCE.
- 10. PRURIENT INTEREST - desire or craving for sexual stimulation or gratification. In determining "PRURIENT INTEREST", the MATERIAL or PERFORMANCE shall be Judged with reference to average PERSONS, unless it appears from the character of the MATERIALS or PERFORMANCE that it is designed to appeal to the PRURIENT INTEREST of a particular group of PERSONS, including, but not limited to, homosexuals or sado-masochists. In that case, it shall be judged with reference to the particular group for which it was designed.
- 11. PUBLIC PLACE or VEHICLE - any of the streets, alleys, parks, boulevards, schools, or other public property in the TOWNSHIP, or any dance hall, rental hall, theater, amusement Park, liquor establishment, store, depot, place of public accommodation, or other private property generally frequented by the public for the purpose of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation owned or operated by government, either directly or

through a public corporation or authority or owned or operated by any non-governmental agency for the use, enjoyment or transportation of the general public.

12. SADO-MASOCHIST ABUSE - flagellation or torture by or upon a PERSON who is nude or clad in undergarments or in a sexually reveling or bizarre costume or the condition of such PERSON being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.
13. SEXUAL CONDUCT - patently offensive representations or descriptions of ultimate acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibition of the genitals.
14. SEXUAL EXCITEMENT - the facial expressions, movements, utterances or any other physical responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal or experiencing the physical or sensual reactions of humans engaging in or witnessing SEXUAL CONDUCT.

II. Disseminating and/or Promoting Lewd Material

It shall be unlawful for any person, as defined in this Ordinance, to disseminate and/or promote and/or display publicly lewd material in the Township. A person shall be guilty of the offense of disseminating and/or promoting and/or displaying publicly lewd material if, knowing its content and character he/she:

1. Disseminates or causes to be disseminated any lewd material in or from a public place or vehicle or for valuable consideration; or has in his possession, any lewd material with intent to so disseminate; or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him, for such dissemination of lewd material; or
2. Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited, lewd material or a performance which contains lewd material; or

3. Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which contains lewd material; or
4. Produce, presents, directs or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him/her to be used for a performance which contains lewd material before an audience; or
5. Participates in that portion of a live performance before an audience which makes the performance contain lewd material; or
6. Panders, displays publicly or disseminates door-to-door, any lewd material, or causes such pandering, public display or door-to-door dissemination.

III. Exemptions

Nothing in this Ordinance shall apply to any recognized historical society or museum accorded charitable status by the Federal Government, any county, borough, township or public library, any library of any school or any library or archive under the supervision and control of the Commonwealth or a political subdivision.

IV. Penalties

Penalties are as set forth in Section VI of this Ordinance.

V. Designation of violations: proceedings.

Unless otherwise prescribed by a general law of the Commonwealth of Pennsylvania, any violation of a provision of this Ordinance shall constitute a Civil Violation, as defined in the laws of the Commonwealth, and shall be prosecuted in accordance with the laws of the Commonwealth and the Rules of civil Procedure adopted by the Pennsylvania Supreme Court.

VI. Penalties

Except where specific maximum penalties are provided elsewhere in this Ordinance, in a law of the Commonwealth uniformly effective for political subdivisions or in another ordinance of the TOWNSHIP for a particular violation, any PERSON who shall violate any provision of this Ordinance, any provision of any code or other regulation adopted by reference by this Ordinance or any provision of any other TOWNSHIP ordinance referring to this Section, by doing any act prohibited or declared to be unlawful thereby or declared to be a violation thereby, or who shall engage in or exercise any business or occupation or do anything for which a license or permit is required thereby without having a valid license or permit therefore as required, or who shall fail to do any act required by any such provision, or who shall fail to do any act when such provision declares such failure to be unlawful or to be a violation, shall upon an adjudication and a finding of a violation, pay a civil penalty not to exceed \$500.00 for a violating of this Ordinance or the TOWNSHIP CODE OF THE COMMONWEALTH OF PENNSYLVANIA, costs or prosecution, attorney's fees where authorized; all collectible as provided by law.

VII. Continuing Violations

Where provided in any Section of this Ordinance or in any other ordinance of the TOWNSHIP, the continuation of a violation for each successive day shall constitute a separate offense, and the PERSON or PERSONS allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

VIII. Additional Remedies

The imposition of a penalty as provided in § 5.2 above, or as specifically provided in any other chapter of this Ordinance or other ordinance of the TOWNSHIP, shall be in addition to any injunctive or remedial relief which is authorized under the laws of the Commonwealth, with the same force and effect as through provided for herein. Such penalty shall not be deemed to be in lieu of any provision for revocation or suspension of any license or permit.

IX. Disposition of Fines

Unless provided otherwise in the laws of the COMMONWEALTH, all fines or penalties collected for violations of provisions of this Ordinance or of other ordinances of the TOWNSHIP shall be paid over to the TOWNSHIP SUPERVISORS.

X. Effective Date

This Ordinance has been examined, approved and shall be effective the
1st day of APRIL, 2009.

ATTEST:

Seri Pinkerton
Township Secretary (to all)

(TOWNSHIP SEAL)

BUFFALO TOWNSHIP SUPERVISORS

By: James A. Mounts
James A. Mounts, Chairman

By: Timothy P. Doman
Timothy P. Doman

By: Lawrence O. Phillips
Lawrence O. Phillips