

BIG CREEK TOWNSHIP ORDINANCE NO. 4

The Offensive Sexually Explicit Material Control Ordinance

Adopted by Township Board of the Township of Big Creek, Oscoda County, Michigan on the 21st day of October 1974.

An ordinance to control the public display of pictorial offensive sexually explicit material within the confines of Big Creek. This Ordinance shall be known as the Offensive Sexually Explicit Material Control Ordinance.

Section 1. It shall be unlawful for any person acting in a managerial capacity or being the owner, proprietor, operator, or manager of a business 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 a 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.

Section 2. 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 intercourse, 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

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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. Works of art or of anthropological significance are not included within the definition of this paragraph.

- B. "Offensive" means that the work in which the representations appear, taken as a whole, appeals to the prurient interest and patently depicts or portrays the prohibited sexually explicit material in a manner which, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- C. "Public display", in the context of films or motion pictures, means the projection of said films or motion pictures on any viewing screen of any theater, public or private, outdoors or inside a completely enclosed building. In the context of photographs, drawings, sculptures or other visual representations, "public display" shall mean the placing of materials within the definition of subparagraph "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.

Section 3. Every person, who violates or refuses to comply with any section of this ordinance shall be guilty of a misdemeanor. Upon conviction thereof, he shall be punishable by a fine of not to exceed one hundred dollars (\$100.00),

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or by imprisonment for not to exceed ninety (90) days, or both. Each day during which a violation continues shall be deemed a separate offense. In addition to the criminal sanctions herein provided, the Township may institute injunctive proceedings, or other appropriate civil proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.

It is further hereby ordained that this Ordinance shall become effective within 30 days of publication.

Germaine E. Dennis

Township Clerk

Big Creek Township

By Authority of Township Board.