

BOROUGH OF CORSICA
JEFFERSON COUNTY, PENNSYLVANIA
ORDINANCE NO.

76

AN ORDINANCE OF THE BOROUGH OF CORSICA, JEFFERSON COUNTY, PENNSYLVANIA, DEFINING LEWD MATERIALS AND REGULATING THE DISSEMINATION, PROMOTION AND OF ADULT BOOK STORES, ADULT ENTERTAINMENT HOUSES AND MASSAGE PARLORS AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the **Borough Council** of the **Borough of Corsica**, **Jefferson County**, Pennsylvania, has the authority under the **Borough Code** to adopt such ordinances and regulations which are not inconsistent with or restrained by the Constitution and state laws and regulations as may be deemed expedient for the proper management of the **Borough** and the maintenance of peace, good government and welfare of the **Borough**; and

WHEREAS, the **Borough Council** of the **Borough of Corsica** deems it necessary to adopt certain laws and regulations regulating the dissemination, promotion and distribution of lewd materials in the **Borough** and prohibiting the operation of adult book stores, adult entertainment houses and massage parlors in the **Borough**;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED AND IT IS HEREBY ORDAINED AND ENACTED by the **Borough Council** of the **Borough of Corsica**, **Jefferson County**, Pennsylvania and Commonwealth of Pennsylvania, as follows:

SECTION 1. DEFINITIONS.

A. **GENERAL.** Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give the Ordinance its most reasonable application, and, as used in this ordinance, the masculine shall include the feminine and neuter.

B. **SPECIFIC DEFINITIONS.**

1. **ADULT BOOK STORE.** 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.

2. **ADULT ENTERTAINMENT HOUSE.** An establishment used for presenting live performances or motion pictures, films, movies, slides, or similar photographic reproductions for observation by persons therein, and which excludes minors by virtue of age.

3. **AUDIENCE.** One or more persons who are permitted to view a performance for valuable consideration or in or from a public place.

4. **DISPLAY PUBLICLY.** Exposing, placing, posting, exhibiting, or in any other fashion displaying in any location, whether public or private, material or a performance in such a manner that it may be readily seen and its content or character distinguished by viewing it in or from a public place or vehicle.

5. **DISSEMINATE.** Manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material or to offer or agree to do the same, or to have material in one's possession with intent to do the same.

6. **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 **Borough of Corsica**, 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, educational or scientific values.

7. **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 or electrical or other apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other such similar preparation commonly used in the practice of massage, under such circumstances that it is reasonable expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

8. **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.

9. **MATERIAL**. Any printed matter, visual representation, or sound recording, including, but not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensional forms, sculptures, and phonograph, tape or wire recordings.

10. **NUDITY**. Uncovered, or less than opaquely covered, post-pubertal human genitals or pubic area, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipples and the areola only are covered.

11. **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.

12. **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.

13. **PERSON**. Any individual, partnership, firm, association, corporation or other legal entity.

14. **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 material 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 designated.

15. **PUBLIC PLACE OR VEHICLE.** Any street, alley, park, boulevard, school or other public property of any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation, or other private property in the **Borough of Corsica** generally frequented by the public for the purposes of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation, owned or operated by the government, either directly or through a public corporation or authority, or owned or operated by any nongovernmental agency for the use, enjoyment or transportation of the general public.

16. **SADO-MASOCHISTIC ABUSE.** Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing 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.

17. **SEXUAL CONDUCT.**

- (a) Masturbation;
- (b) Sexual intercourse, whether genital-genital, oral-genital, oral-anal, or anal-genital;
- (c) Any erotic fondling or touching of the covered or uncovered genital, buttocks, public area or any part of the breasts of the female, whether the conduct described in subsection (a) through (c) is engaged in alone or between members of the same or opposite sex, or between humans and animals or humans and inanimate objects;
- (d) Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof;

(e) Sexual excitement, as hereinafter defined;
or

(f) Sado-masochistic abuse as herein defined.

18. **SEXUAL EXCITEMENT.** The facial expressions, movements, utterances or 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.

SECTION 2. DISSEMINATING AND/OR PROMOTING AND/OR DISPLAYING LEWD MATERIAL

A. **OFFENSES DEFINED.** It shall be unlawful for any person to disseminate and/or promote and/or display publicly lewd material in the **Borough of Corsica**. 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:

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. Produces, presents, directs, or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him 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.

SECTION 3. MASSAGE PARLORS, ADULT BOOK STORES, ADULT ENTERTAINMENT HOUSES

A. OFFENSES DEFINED.

1. **MASSAGE PARLORS.** 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, registered physical therapist, registered occupational therapist or speech therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten (10). The date and 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 **Corsica Borough Council** or 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, chiropractor, registered physical therapist, or registered occupational therapist or speech therapist, 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. **ADULT BOOK STORES.** No person shall engage in the operation of any adult book store within the **Borough of Corsica.**

3. **ADULT ENTERTAINMENT HOUSES.** No person shall engage in the operation of any adult entertainment house within the **Borough of Corsica**.

SECTION 4. PENALTIES

Any person who shall violate this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred and 00/100ths (\$600.00) Dollars, and, in default of payment, to imprisonment for a term not to exceed thirty (30) days. Each day of a violation of this ordinance shall constitute a separate offense.

SECTION 5. INJUNCTION

The Solicitor for the **Borough of Corsica** may institute proceedings in equity in the Court of Common Pleas of **Jefferson County** for the purpose of enjoining any violation or potential violation of this ordinance.

SECTION 6. REPEALER

All ordinances or parts or provisions of ordinances which are inconsistent herewith are hereby expressly repealed.

SECTION 7. SEVERABILITY AND INTENT

If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the **Borough of Corsica's Borough Council** that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part hereof not been included herein.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED at a duly constituted and held regular meeting of the Borough Council of the Borough of Corsica this 15 day of October, 1996.

BOROUGH OF CORSICA:

David P. Gleason
President

Attest:

Colin J. Johnson
Secretary

AND NOW, this 15 day of October, 1996, the foregoing Ordinance is hereby approved.

Timothy Scott Cochran
Mayor