

CHAPTER 6

CONDUCT

PART 1

SEXUAL EXPLOITATION

- §6-101. Legislative Finding and Purpose
- §6-102. Definitions
- §6-103. Prohibited Conduct
- §6-104. Enforcement

PART 2

CURFEW

- §6-201. Name
- §6-202. Legislative Intent
- §6-203. Definitions
- §6-204. Unlawful Conduct of Minor
- §6-205. Unlawful Conduct of Parents
- §6-206. Unlawful Conduct of Operations of Establishments
- §6-207. Rules and Regulations
- §6-208. Offenses
- §6-209. Penalties
- §6-210. Annual Review

PART 3

POSSESSION OF ALCOHOLIC BEVERAGES PROHIBITED IN PUBLIC PLACES

- §6-301. Definitions
- §6-302. Possession in Public Places Prohibited
- §6-303. Possession in Nonpublic Places Regulated
- §6-304. Violations and Penalties

PART 1

SEXUAL EXPLOITATION

§6-101. Legislative Finding and Purpose.

The Board of Supervisors of Earl Township finds that the commercial exploitation of explicit sexual conduct through the public exhibition of obscene films and the sale of obscene publications and devices, and the use of so-called massage establishments, adult model studios, bath houses, body painting studios, outcall service activities or sexual encounter centers for the purpose of lewdness, assignation or prostitution constitutes a debasement and distortion of a sensitive key relationship of human existence, central to family life, community welfare and the development of human personality, is indecent and offensive to the senses and to public morals and interferes with the comfortable enjoyment of life and property, in that such interferes with the interest of the public in the quality of life and total community environment, the tone of commerce in Earl Township, property values, and the public safety. It further finds that continued operation of such activities is detrimental to the health, safety, convenience, good morals and general welfare of Earl Township, and of the residences, citizens, inhabitants and businesses thereof. Accordingly, the Board of Supervisors hereby declares such activities to be unlawful as hereinafter set forth, and further, that such activities are, and are hereby declared to be and constitute a public nuisance, and herein establishes penalties for such activities.

(Ord. 1-1988, 4/4/1986, Art. I)

§6-102. Definitions.

In this Part 1 the following definitions shall apply:

ADULT MODEL STUDIO—means any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, except that this provision shall not apply to any “figure studio” or “school of art” or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder, to issue and confer a diploma.

BATH HOUSE—means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs. This section shall not apply to hydrotherapy treatment practiced by, or under the supervision of a medical practitioner or practiced by a professional massage technician. A medical practitioner, for the purpose of this Part 1, shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

CONDUCT

BODY PAINTING STUDIO—means any establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the human body when specified anatomical areas are exposed.

COMMUNITY STANDARDS—means the standards of the community consisting of the County of Lancaster.

KNOWINGLY—shall mean having knowledge of the character and content of the material involved or failure on notice to exercise reasonable inspection which would disclose the content and character of the same.

MASSAGE ESTABLISHMENT—means any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physical therapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

MINOR—means any person under the age of 18 years.

OBSCENE—means that which is determined as obscene, applying the following guidelines:

- A. Whether the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest;
- B. Whether the subject matter depicts or describes in a patently offensive way sexual conduct of a type hereinafter described;
- C. Whether the subject matter taken as a whole lacks serious literary, artistic, political or scientific value; and
- D. Whether subject matter which, standing alone, might not be obscene, may nevertheless be characterized as obscene when examined in the context of the circumstances of production, sale and publicity and, in particular, of pandering.

OUTCALL SERVICE ACTIVITY—means any establishment or business which provides an outcall service which consists of individuals leaving the premises upon request or by appointment to visit other premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.

PATENTLY OFFENSIVE—means so offensive on its face as to affront current standards of decency and shall be deemed to include any of the following described forms of sexual conduct if they are depicted so as to affront current standards of decency:

- A. An act of sexual intercourse, normal or perverted, actual or simulated, real or animated, including genital-genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal or other object.
- B. Sadoomasochistic abuse meaning flagellation or torture or sexual gratification, by or upon a person who is nude or clad in undergarments or in a revealing costume, or the condition or being fettered, bound or otherwise physically restrained on the part of the one so clothed.
- C. Masturbation, excretory functions and lewd exhibition of the genitals, including any explicit close-up representation of a human genital organ or spread-eagle exposure of female genital organs.
- D. Physical contact or simulated physical contact with the clothed or naked pubic area or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex, or between humans and animals in an act of apparent sexual stimulation or gratification.
- E. A device designed and marketed as useful primarily for stimulation of the human genital organs.
- F. Male or female genitals in a discernibly turgid state.

PERSON—shall mean a natural person, partnership or corporation. Whenever used in a clause describing or imposing a fine or term of imprisonment, or both, the term “person” as applied to partnership shall mean the officers thereof.

SEXUAL ENCOUNTER CENTER—means any business, agency, or person who, for any form of consideration or gratuity, provides a place where 2 or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, including psychosexual workshops operated by professional persons licensed by the Commonwealth to engage in sexual therapy.

SPECIFIED ANATOMICAL AREAS—as used herein shall mean and include any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES—includes the following:

- A. The fondling or other touching of human genitals, pubic regions, buttocks or female breasts.

CONDUCT

- B. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy.
- C. Masturbation, whether actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

(Ord. 1-1988, 4/4/1986, Art. II)

§6-103. Prohibited Conduct.

1. General.

- A. No person shall knowingly either sell, rent, distribute, exhibit, show or transmit or offer either to sell, rent, distribute, exhibit, show or transmit or have in his possession or under his control with intent either to sell, rent, distribute, exhibit, show or transmit to another, any obscene motion picture film, or any obscene literature, book magazine, pamphlet, newspaper, story book, comic book, writing, drawing, photograph, figure, image, or any written or printed matter of an obscene nature or any device, article or instrument of any obscene nature.
- B. No person shall knowingly participate in, support or in any way aid or assist any person in selling, renting, distributing or showing any obscene motion picture film, or any obscene literature, book, magazine, pamphlet, newspaper, story book, paper, comic book, writing, drawing, photograph figure, image, or any written or printed matter of any obscene nature or any device, article or instrument of an obscene nature.
- C. No person shall knowingly produce, present or direct any obscene performance or participate in the portion thereof which is obscene.
- D. No person, being the owner of any premises or having control thereof, shall knowingly permit within or upon said premises the exhibition, projection or showing of any motion picture film, show, presentation or performance of an obscene nature, or permit anyone to sell, rent, distribute, exhibit, give away or show any obscene literature, book, magazine, pamphlet, newspaper, story book, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature.
- E. No person shall knowingly write, print, publish or utter, or cause to be printed, published or uttered, any advertisement or notice of any kind giving information directly or indirectly, stating or purporting to state where, how or whom or by what means any obscene motion picture film, picture book, writing, paper, comic book, figure, image, matter, article or thing of an obscene nature can be seen, purchased, obtained or had.

- F. It shall be a defense for a noncommercial individual to possess obscene materials; provided, that the individual has obtained those materials for viewing or use in his home, and not for any commercial purpose.

2. **Minors.**

- A. **Display of Certain Material.** No person, within Earl Township, shall display at newsstands or any other business establishment frequented by minors under the age of 18 years or where said minors are or may be invited as a part of the general public, or where they may view same, any material depicting the acts specified in §6-102, definition of "Patently Offensive," Sub-sections A through G, male or female buttocks or genitals or the female breast below a point immediately above the top of the areola.
- B. **Possession and Control of Obscene Material.** In addition to any other violations or penalties prescribed herein, any person in Earl Township who has in his possession or under his control with intent to sell, rent, distribute, exhibit, show or transmit to another any obscene motion picture film or any literature, book, magazine, pamphlet, newspaper, story book, paper, comic book, writing, or any other written or printed matter containing photographs or photographic images depicting a minor participating, performing or observing any of the acts defined in §6-102, subsection (2) shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$600 and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days, in addition to any other penalties imposed.

Any obscene literature or film displaying or presenting pictures, photographs or photographic images depicting prepubescent children exhibiting underdeveloped genitalia or breasts shall be a per se violation of the provisions of this section without further proof of age.

3. **Adult Model Studio, Bath House, Body Painting Studio, Massage Establishment, Outcall Service Activity and Sexual Encounter Center.**

- A. No person shall own, operate or maintain any adult model studio, bath house, body painting studio, massage establishment, outcall service activity or sexual encounter center which, as a regular course of business, is used for the purpose of lewdness, assignation or prostitution, and every such adult model studio, bath house, body painting studio, massage establishment, outcall service activity or sexual encounter center in or upon which acts of lewdness, assignation or prostitution are held or occur is declared to be a public nuisance.

(Ord. 1-1988, 4/4/1986, Art. III; as amended by Ord. 2-1989, 6/5/1989)

§6-104. Enforcement.

Upon observing or receiving notice of a potential violation of this Part 1, a Township Official shall conduct an investigation to determine whether legal action shall be taken.

CONDUCT

If the Township determines that there is reason to believe that a violation of this Part 1 has or is continuing to occur, the Township shall continue its investigation in order to determine whether there is probable cause for the institution of legal action for the enforcement of this Part 1. The facts establishing probable cause shall be assembled according to the following procedure:

- A. **Obscene Articles Available for Purchase.** A Township official shall purchase the allegedly obscene articles and prepare, issue or file the appropriate process for the institution of enforcement proceedings for each article purchased.
- B. **Obscene Films.** If an allegedly obscene film is not available for purchase, a Township official shall obtain a search warrant for the seizure of the film. After the search warrant has been issued, the official shall confiscate the film described in the search warrant and prepare, issue or file the appropriate process for the institution of enforcement proceedings.

If the film seized is the only copy available, the official shall request the magisterial district judge who issued the search warrant to allow the copying of the film. The original film shall be returned to the owner as soon as possible after it has been copied pursuant to the magisterial district judge's authorization.

- C. **Obscene Live Performances.** An official shall observe the allegedly obscene performance and prepare, issue or file the appropriate process for the institution of enforcement proceedings.

(Ord. 1-1988, 4/4/1986, Art. IV)

PART 2
CURFEW

§6-201. Name.

This Part shall be known as the Earl Township Curfew Ordinance.

(Ord. 2004-06, 12/6/2004, §I)

§6-202. Legislative Intent.

The Earl Township Board of Supervisors, recognizing the problem of crimes committed by and committed against juveniles during the night-time and believing that it can be dealt with more effectively by regulating the hours during which minors less than 18 years of age may remain in public places and certain establishments without adult supervision, and by defining more clearly certain duties and responsibilities upon those who have the custody and responsibility for the care of such minors, hereby enacts this Part for the purpose of (a) promoting the general welfare and protecting the general public through reduction of juvenile violence and crime within Earl Township, (b) promoting the safety and welfare of the Township's citizens under the age of 18 whose youth and inexperience renders them particularly vulnerable to becoming participants in criminal activity and being victimized by perpetrators of crime, and (c) fostering and strengthening parental responsibility for children.

(Ord. 2004-06, 12/6/2004, §II)

§6-203. Definitions.

In this Part the following definitions shall apply:

AFTER HOURS—the period of time between the hours of 11 p.m. and 5 a.m. on Sunday through Thursday nights and 12 midnight and 5 a.m. on Friday and Saturday nights.

ESTABLISHMENT—any privately owned place of business operated for profit, including any place of amusement or entertainment, to which the public is invited.

EMERGENCY—refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb, or property. The term includes, but is not limited to, fires, natural disaster, automobile accidents, or other similar circumstances.

MINOR—any person less than 18 years of age. For the purpose of this Part any person shall be deemed to be 18 years of age on the date of his or her 18th birthday and not before this time.

CONDUCT

OPERATOR—any individual, firm, association, partnership, or corporation owning, operating, managing or conducting any establishment. Whenever used in any provision prescribing a penalty, the word “operator” shall include the members, partners, officers, and managers of any firm, association, partnership or corporation.

PARENT—the biological or adoptive parent of a minor; a legal guardian of the minor; or an adult person 21 years of age or over and who is authorized by a minor’s parent or legal guardian to be responsible, either temporarily or permanently, for the custody or care of any minor or for the control of such minor.

PUBLIC PLACE—any public street, highway, road, alley, park, playground, vacant lot or any private building, structure or area to which the public is invited or in which the public is allowed to remain.

REMAIN—to be at or stay at a place.

(Ord. 2004-06, 12/6/2004, §III)

§6-204. Unlawful Conduct of Minor.

It shall be unlawful for a minor to remain in or upon any public place or to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon an establishment in Earl Township after hours except as follows:

- A. The minor is accompanied by a parent; or
- B. The minor is involved in an emergency; or
- C. The minor is engaged in an activity, related to his or her employment, or is going to or returning home from such activity, without detour or stop; or
- D. The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- E. The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
- F. The minor is on an errand at the direction of a parent, and the minor has in his or her possession a written statement signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, a brief description of the errand, the minor’s destination(s) and the hours the minor is authorized to be engaged in the errand; no minor or parent shall falsify the documents described above; or

- G. The minor is involved in interstate travel through or beginning or terminating in Earl Township; or
- H. The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(Ord. 2004-06, 12/6/2004, §IV)

§6-205. Unlawful Conduct of Parents.

No parent shall knowingly permit any minor to remain in or upon any public place or establishment after hours unless the minor is engaged in an activity permitted under §6-204 of this Part. Knowingly shall mean knows or has reason to know.

(Ord. 2004-06, 12/6/2004, §V)

§6-206. Unlawful Conduct of Operator of Establishments.

No operator of an establishment shall knowingly permit any minor to remain upon the premises of such establishment after hours.

(Ord. 2004-06, 12/6/2004, §VI)

§6-207. Rules and Regulations.

The Chief of Police of New Holland Borough is hereby authorized from time to time to promulgate such rules and regulations, including the extension of hours for special occasions, as in his or her opinion shall be necessary or useful in the enforcement of this Part. Such rules and regulations shall, however, be subject to the approval of the Board of Supervisors of Earl Township.

(Ord. 2004-06, 12/6/2004, §VII)

§6-208. Offenses.

Each violation of the provisions of this Part shall constitute a separate offense.

(Ord. 2004-06, 12/6/2004, §VIII)

§6-209. Penalties.

Before taking an enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public area. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably

CONDUCT

believes that an offense has occurred and that, based on any response and other circumstances, no exception set forth in §6-204 applies.

- A. Any minor or parent who violates the provisions of this Part for the first time may be issued a citation. The minor may be taken into temporary custody, in which case his or her parents or other appropriate person shall be notified and the minor shall be released into the custody of the appropriate parent or parents of the minor or to a brother or sister 18 years of age or older or a grandparent, aunt or uncle. If no such person is available after reasonable efforts have been made to locate such person, then the minor shall be released to such agencies or institutions as are established for juvenile welfare.
- B. At the officer's discretion, a minor who is found upon the streets, alleys, parks or public places within the Borough, for the first time, may take the minor into custody. The Officer will contact the minor's parent(s), legal guardian, or brother or sister over the age of 18, instruct them to come into the police station to pick up the minor. At that time, the Officer will deliver to the minor's parent(s), legal guardian, brother or sister over the age of 18, a copy of the Township's Curfew Ordinance. If the Officer chooses to follow this procedure for a first-time violation, this arrest would not be considered the minor's first violation for purposes of this subsection (C) of this Section. A subsequent violation would be considered the minor's/parent's first violation under subsection (C).
- C. Any minor or parent who violates any provisions of this Part is guilty of a summary offense and, upon conviction thereof, shall be subject to fine or imprisonment as follows:
- | | |
|-------------------------------|---|
| First Offense | - Up to \$25 |
| Second Offense | - Up to \$100 |
| Third and subsequent offenses | - Up to \$300 Parents are subject to imprisonment up to 30 days and minors to referral to the Juvenile court system |
- D. Any operator convicted of violating the provisions of this Part for the first time shall be fined \$50 and shall be subject to imprisonment for a term not to exceed 30 days. Any operator convicted of violating the provisions this Part for the second or subsequent time shall be fined \$300 and shall be subject to imprisonment for a term not to exceed 30 days.

(Ord. 2004-06, 12/6/2004, §IX)

§6-210. Annual Review.

This Part and the need for it shall be reviewed annually. By December 1, 2004, and each year thereafter, the Chief of Police of New Holland Borough shall review the Part

and report and make recommendations to the Board of Supervisors of Earl Township concerning the effectiveness of and the continuing need for this Part. The report shall include, but not be limited to, the following information:

- A. The practicality of enforcing the Chapter and any problems with enforcement identified by the New Holland Borough Police Department.
- B. The impact of this Chapter and support programs on juvenile crime statistics.
- C. Number of juveniles taken into custody for curfew violations.
- D. Number of official citizen complaints filed regarding the enforcement of this Part.

(Ord. 2004-06, 12/6/2004, §X)

PART 3

**POSSESSION OF ALCOHOLIC BEVERAGES
PROHIBITED IN PUBLIC PLACES**

§6-301. Definitions.

As used in this Part, certain terms are defined as follows:

ALCOHOLIC BEVERAGE—any liquor, malt or brewed beverage, wine or alcoholic cider, as those terms are defined in Pennsylvania Liquor Code, 47 P.S. §1-102, or as regulated by the Pennsylvania Liquor Code, 47 P.S. §1-101, *et seq.*

PUBLIC PLACE—any street, alley, sidewalk, park, playground or place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate front of any store, shop, restaurant, tavern or other places of business.

(Ord. 04-07, 12/6/2004, §1)

§6-302. Possession in Public Places Prohibited.

No person within Earl Township shall transport or have in his possession an open or unsealed bottle or container of alcoholic beverage when such person is in a public place.

(Ord. 04-07, 12/6/2004, §2)

§6-303. Possession in Nonpublic Places Regulated.

No person within Earl Township shall enter upon the private property of another, having on his person an open or unsealed bottle or container of an alcoholic beverage, without the permission, consent or invitation of the owner, occupant or other person having control of such private property.

(Ord. 04-07, 12/6/2004, §3)

§6-304. Violations and Penalties.

1. Any person who violates any of the provisions of this article shall, upon conviction thereof in a summary proceeding before a magisterial district judge be fined:
 - A. Twenty-five dollars for the first offense.
 - B. One hundred dollars for any subsequent offense.

CONDUCT

2. In default of payment thereof, such person shall be imprisoned for not more than 30 days.
3. The fines collected by the magisterial district judge for violations of the provisions of this Part shall be paid over to Earl Township.

(Ord. 04-07, 12/6/2004, §4)