

#C-1-e

TOWN OF HAMPDEN

The Town of Hampden Hereby Ordains
the following Ordinance for the protection of minors be adopted

ARTICLE I - REGULATION OF DISPLAY OF MATERIALS HARMFUL TO MINORS

Sec. 1 Display of Materials Harmful to Minors Prohibited. In any premises open to the general public it shall be unlawful for any person to knowingly display, or knowingly permit or allow the display, for purposes of sale of any book, magazine, picture, photograph, drawing or similar visual representation or image of a person or portion of the human body of which the outside cover or portions exposed to public view depicts nudity, sexual conduct, or sado-masochistic abuse, and which taken as a whole, lacks serious literary, artistic, political or scientific value, and is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors.

Sec. 2 Definitions. For purposes of this ordinance, the following terms, phrases, words and their derivatives shall have the meaning given herein. Terms not defined herein shall have their customary dictionary meaning.

2.1 Display: To exhibit as an inducement for individuals to view, peruse, or purchase.

2.2 Knowingly: Having a general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both of:

2.2.1 the character and content of any material described in Section 1 of this ordinance which is reasonably susceptible to examination; and

2.2.2 the age of the minor.

2.3 Minor: Any person under the age of eighteen years.

2.4 Nudity: The showing of the human male or female genitals, pubic area or buttocks, the female breast below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

2.5 Person: Any individual, partnership, firm, association, corporation, trustee, lessee, agent, assignee, or other legal entity.

- 2.6 Sado-masochistic abuse: Flagellation or torture by or upon a person clad in undergarments or a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
- 2.7 Sexual conduct: Acts of sodomy, masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.
- 2.8 Sexual excitement: The condition of the human male or female genitals when in a state of sexual stimulation or arousal.

Sec. 3 Exceptions.

- 3.1 The prohibitions of this ordinance shall not apply to premises in which minors are not permitted.
- 3.2 Materials otherwise subject to the provisions of section 1 of this ordinance, may be displayed in completely opaque covers, wrappers, or display racks permitting direct public view of only the title or any other portions otherwise not proscribed under said section 1.
- 3.3 Display of materials used and displayed for educational purposes such as art galleries, museums, libraries, schools, and medical buildings shall not constitute a violation of this ordinance.

Sec. 4. Violations. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be subject to a fine of not less than \$100.00 nor more than \$1000 to be recovered, on complaint, to the use of the Town of Hampden. Each day that a violation continues shall be deemed a separate offense. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town shall be awarded reasonable attorney's fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Adopted: 10-6-97

Effective: 11-4-97