

Greene Township
Erie County Pennsylvania
PUBLIC INDECENCY
ORDINANCE NO. 2001-0410

An Ordinance prohibiting certain conduct in public places, providing definitions relating thereto, and penalties for the violators thereof, including fines, imprisonment, and declaration of public nuisance, as appropriate.

WHEREAS, the Supervisors of Greene Township, are concerned that certain lewd and immoral activities, carried on in public places for profit, are highly detrimental to the public health, safety and welfare and lead to the debasement of both women and men, promote violence, public intoxication, prostitution and other serious criminal activity; and

WHEREAS, Greene Township wishes to limit or restrict such lewd and immoral activities, to provide penalties for violations thereto and, in appropriate cases, to declare the locations of such activities to be a public nuisance subject to abatement; and

WHEREAS, the Supervisors of Greene Township are fully aware of and fully respect the fundamental constitutional guarantees of free speech and free expression, and realize that restrictions of such freedoms must be carefully drafted and enforced so that speech and expression are not curtailed beyond the point at which it is essential to further Greene Township's interest in public health, safety and welfare; and

WHEREAS, over the years, various statues and court interpretations have been enacted and decided, which compel periodic re-evaluation and revision of municipal ordinances and regulations; and

WHEREAS, Greene Township and the Supervisors of Greene Township specifically wish to adopt the concept of Public Indecency prohibited by the laws of the State of Indiana, which were approved by the U.S. Supreme Court in Barnes vs. Glen Theatre Inc., et al 111 S.Ct. 2456 (1991), for the purpose of limiting nude live entertainment within the Township, which activity adversely impacts and threatens to impact the public health, safety and welfare by providing an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, the spread of sexually transmitted diseases and other deleterious affects.

NOW THEREFORE, BE IT ENACTED BY THE GREENE TOWNSHIP BOARD OF SUPERVISORS, ERIE COUNTY, PENNSYLVANIA, AS FOLLOWS:

Greene Township hereby enacts the within ordinance entitled "Public Indecency" to read as follows:

Section 1. **Committing Public Indecency** - A person who knowingly or intentionally does any of the following in a public place commits public indecency, a summary offense:

- a. Engages in sexual intercourse;
- b. Engages in deviate sexual intercourse as defined by the Pennsylvania Crimes Code;
- c. Appears in a state of nudity.

Section 2. **Definitions** -As used in this ordinance, certain terms are defined as follows:

1. "Nudity" means the showing of the human male or female genital, pubic area or buttocks, with less than a fully opaque covering; the showing of the female breast, with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of, or simulates, the genitals, pubic hair, natal cleft, perineum anal region, or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.
2. "Public Place" includes all outdoor places owned by, or open to, the general public, and all buildings and enclosed places owned by or open to the general public including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific numbers, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

Section 3. **Exceptions** -The prohibition set forth in subsection 1(c) shall not apply to:

- a. Any child under ten (10) years of age; or
- b. Any individual exposing a breast in the process of breast feeding an infant under two (2) years of age.

Section 4. **Abatement of Public Nuisances** -

In addition to the specific penalties provided in this Ordinance, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner, proprietor or other operator thereof, to any and all actions authorized by the Commonwealth of Pennsylvania for the abatement of public nuisances.

Section 5. **Construction and Severability** -

It is the intent of the Township of Greene that the provisions of this Ordinance be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental

rights consistent with the purposes of this Ordinance. Should a court of competent jurisdiction determine that any part of this Ordinance, or any application or enforcement of it, is excessively restrictive of such rights or liberties, then such portion of the Ordinance, or specific application of the Ordinance, shall be severed from the remainder, which shall continue in full force and effect.

Section 6. Penalty –

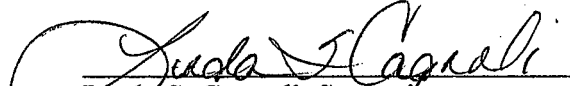
Whoever violates this Ordinance, either by commission of a public indecency, or by the promotion or maintenance of public indecency as property owner, proprietor or manager of a business, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of not more than \$1,000.00, or be imprisoned for not more than 90-days, or both. Each day such violation continues is a separate offense. In addition to the provisions provided above, whoever violates this ordinance, either by commission of a public indecency, or by the promotion or maintenance of public indecency as property owner, proprietor or manager of a business, shall be subject to the remedies and procedures as set forth in Article XXI of Chapter 27, Zoning Ordinance of Greene Township. Said Article XXI of Chapter 27 dealing with enforcement and enforcement notices is incorporated herein by reference as if set forth fully and completely herein.

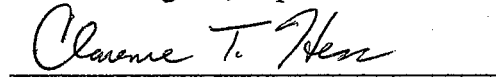
Section 7. Conflicting Sections - That all ordinances and parts thereof conflicting herewith be and the same are hereby repealed.

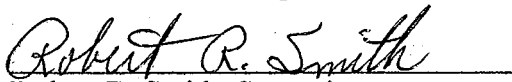
Section 8. Effective Date - That this Ordinance shall become effective immediately.

We do hereby certify that the above Ordinance was adopted by the Greene Township Supervisors on April 10, 2001.

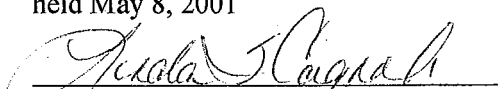
GREENE TOWNSHIP SUPERVISORS


Linda S. Cagnoli, Supervisor


Clarence T. Hess, Supervisor


Robert R. Smith, Supervisor

I, Linda S. Cagnoli hereby certify the foregoing is a true and correct copy of Ordinance 2001-0410. Public Indecency Ordinance, adopted at a regularly scheduled meeting of the Greene Township Supervisors held May 8, 2001


Linda S. Cagnoli, Secretary