

Chapter 82

ADULT USES

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[HISTORY: Adopted by the Board of Supervisors of the Township of Fairview at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Public indecency and obscenity — See Ch. 171, Art. 1.

Zoning — See Ch. 246.

§ 82-1. Offenses defined.

A. No person shall knowingly or intentionally in a public place:

- (1) Engage in sexual intercourse;
- (2) Appear in a state of nudity;
- (3) Engage in deviate sexual conduct as defined in the Pennsylvania Crimes Code;
- (4) Fondle the genitals of himself or herself or another person;
- (5) Commit any other lewd, immoral or improper act as defined hereinafter.

B. No establishment licensed to sell or serve alcoholic liquors or alcoholic or malt or brewed beverages, or establishments known as "bottle clubs," or any establishment of any kind where alcoholic liquors or alcoholic or malt or brewed beverages are sold, served or consumed on the premises, or the operators, servants, agents or employees of the same, shall knowingly permit on the premises of such establishment or in any place operated in connection therewith any lewd, immoral or improper acts or conduct as described herein below.

C. No establishment of any kind, or the operators, servants, agents or employees of the same, shall knowingly permit on the premises of such establishment or in any place operated in connection therewith any erotic dancing or nude dancing, unless the following restrictions are adhered to:

- (1) No person shall perform any nude or erotic dancing within 20 feet of any patrons.
- (2) No person performing any nude or erotic dancing shall have any physical contact, including but not limited to lap dancing or other similar acts, with any patron or any other person, or other dancer or performer, before, during or after any performance, or at any time on the premises. This section shall include simulation.

- (3) No person shall perform any nude or erotic dancing for the payment of money or other value or consideration or gratuity from any patron or any other person at any time on the premises, other than the employer of said nude or erotic dancer.
- (4) No person or establishment shall knowingly exhibit for monetary consideration to a minor or knowingly sell to a minor an admission ticket or pass or knowingly admit a minor for a monetary consideration to premises whereon there is exhibited a motion-picture show, or nude or erotic dancing, or other presentation or performance which, in whole or in part, depicts nudity or sexual conduct and which is harmful to minors.
- (5) No person or other establishment shall employ or use any person in the sale and service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the anatomy described in § 82-2 in Subsection C of the definition of "lewd, immoral or improper acts or conduct."
- (6) No nude or erotic dancing shall be performed at any establishment that is located within 500 feet of any private residence, church, public park, public building or school.
- (7) No person shall perform and no establishment of any kind shall permit on the premises any of the acts or conduct set forth in § 82-2 in Subsections A, B, D, G, I and J of the definition of "lewd, immoral or improper acts or conduct."

§ 82-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOTTLE CLUB — An establishment operated for profit or pecuniary gain, which has a capacity for the assemblage of 20 or more persons and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold, but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for the use and consumption of same. The term "bottle club" shall not include a licensee as defined in the Liquor Code.

HARMFUL TO MINORS — That quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement when it:

- A. Predominately appeals to the prurient, shameful or morbid interest of minors;
- B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- C. Taken as a whole, lacks serious literary, artistic, political, educational or scientific value for minors.

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

- A. The character and content of any material or performance described herein which is reasonably susceptible of examination by the defendant; and
- B. The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

LEWD, IMMORAL OR IMPROPER ACTS OR CONDUCT — Includes, but is not limited to, the following acts of conduct:

- A. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or excretion or any sexual acts which are prohibited by law.
- B. Any person being touched, caressed or fondled on the buttocks, anus, vulva, genitals or female breasts. This subsection includes simulation.
- C. Scenes wherein a person displays or exposes to view any portion of the pubic area, anus, cleft of the buttocks, vulva, genitals or any portion of the female breast directly or laterally below the top of the areola. This subsection includes simulation.
- D. Scenes wherein artificial devices or inanimate objects are employed to portray any of the prohibited activities described in Subsection A, B or C of this definition.
- E. Employment or use of any person in the sale and service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the anatomy described in Subsection C of this definition.
- F. Employment or use of the services of a person while the person is unclothed or in such attire as to expose to view any portion of the anatomy described in Subsection C of this definition.
- G. Permitting any person on the premises to touch, caress or fondle the buttocks, anus, vulva, genitals or female breasts of any other person.
- H. Permitting any person on the premises while such person is unclothed or in such attire as to expose to view any portion of the anatomy described in Subsection C of this definition.
- I. Permitting any person to wear or use any device or covering exposed to view which simulates the human buttocks, anus, vulva, genitals or female breasts.
- J. Permitting any person to show, display or exhibit on the premises any film, still picture, electronic reproduction or any other visual reproduction or image the content of which primarily depicts graphic sexual acts as described in Subsections A and D of this definition.

MINOR — Any person under the age of 18 years.

NUDITY — The showing of human male or female genitals, 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; or the showing of covered male genitals in a discernibly turgid state.

SEXUAL CONDUCT — Acts of masturbation, homosexuality, sexual intercourse, sexual bestiality or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

§ 82-3. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

§ 82-4. Liability.

In the event any of the unlawful and illegal activities specified herein are conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to (corporate) entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation of this chapter as well as the person or persons engaged in the unlawful activity and shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

§ 82-5. Abatement.

Any building or part of a building used in violation of this chapter is hereby declared to be a common nuisance. The Township is hereby authorized to institute an action to enjoin any person or entity that is in violation of this chapter from continuing to operate his/its establishment in the Township and to enjoin any person or entity from committing any act which violates any provision of this chapter.

§ 82-6. Separate offenses.

The unlawful activities specified herein shall constitute separate and distinct offenses for each and every day in which said activities are conducted.