

ORDINANCE NO. 105
ORDINANCE CONCERNING INDECENCY AND NUILITY

Section 1 Short Title

This chapter shall be known as the "Indecency and Nudity Ordinance for the Town of Plainfield, Connecticut."

Section 2 Policy Statement

It is not the intent of the Board of Selectmen, enacting this chapter, to deny to any person rights to speech protected by the United States and/or state constitutions, nor is it the intent of the board to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-orientated films, video-tapes, books and/or other materials. Further, by enacting this chapter, the board does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually-orientated materials protected by the United States and/or state constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-orientated materials may have to sell, distribute or exhibit such materials.

Section 3 Definitions

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

Erotic Fondling Touching a person's clothed or unclothed genitals, pubic area or buttocks where such fondling may lead to sexual gratification. *Harmful to minors* That quality of any description or representation in whatever form, of a prohibited sexual act or sexually explicit nudity when it predominantly appeals to the prurient, shameful or morbid interest of minors; when it is patently offensive to the prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and when taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

Inspector means an employee of the Northeast District Department of Health authorized and designated by the director of health, or the zoning enforcement officer, or an employee of the Plainfield Building Department or a member of the Plainfield Police Department, or the Plainfield Fire Marshal, or an agent of any or all such persons who is designated by the board to inspect premises regulated under this chapter in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

Masturbation The real or simulated touching, rubbing, or otherwise stimulating a person's own clothed or unclothed genitals, pubic area, buttocks, or if the person is a female, breast, either by manual manipulation or with an artificial instrument.

Material - Anything tangible which is capable of being used or adapted to arouse prurient, shameful or morbid interest, whether through reading, observation, sound or any other manner. Material or a performance is "obscene as to minors" if it depicts a prohibited sexual act or sexually explicit nudity and, taken as a whole, it is harmful to minors.

Minor - Any person that is seventeen (17) years old or younger.

Nudity- The showing of the human male or female genitals, pubic areas or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola or the depiction of covered male genitals in a discernibly turgid state.

Public place - for this chapter is defined as municipal property, town and state roads, places of public gathering, parks, schools, beaches.

Prohibited sexual act - Erotic fondling, sexually explicit nude performance, sexual excitement, sadomasochistic abuse, masturbation or sexual intercourse.

Sadomasochistic abuse - Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual excitement - The condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sexual intercourse - Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between person of the same or opposite sex, or between human and an animal, or with an artificial genital.

Sexually explicit nudity - showing of the human male or female genitals, pubic areas or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola or the depiction of covered male genitals in a discernibly turgid state.

Visibly displayed - That the material or performance is visible on a billboard, viewing screen, marquee, newsstand, display case or other similar display area that is visible from any part of the premises where a minor is or may be allowed or permitted or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which minors have unrestrained and a reasonably anticipated access and presence.

Section 4 Prohibited Activity

- a. No person having control or supervision of any business or commercial establishment or premises, with knowledge of the content and character of the material involved, shall intentionally or recklessly visibly display, exhibit, or otherwise expose to view, in that part of the premises, or immediately adjacent thereto, where a minor is or may be allowed, permitted or invited, as part of the general public or otherwise, all or any part of any material which contains on its cover, package or wrapping or within the advertisement thereof depictions or photographs of sexually explicit nudity or a prohibited sexual act.
- b. No person shall hire, employ or otherwise place, supervise, control or allow in any business or commercial establishment or other place any minor under circumstances which would cause, lead or allow such minor to engage in the business or activity promoting or otherwise handling material as described in Section 3.
- c. No business or commercial establishment shall allow sexually explicit nudity on its premises.
- d. Nudity is prohibited in public places under circumstances where nudity is likely to cause affront or alarm.

Section 5 Violations and penalties

- a. Any person, partnership or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding one-hundred dollars (\$100.00) for each such violation.
- b. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each violation.
- c. The fine will be issued by an inspector and collected by the Town Clerk's Office of the Town of Plainfield. All fines not paid within ten (10) days shall be doubled.

Section 6 Savings Clause

Should any court of competent jurisdiction declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter.

Dated at Plainfield, CT this 5th day of November 1998.

Paul E. Sweet, First
Selectman

Albert E. Brunson,
Selectman

Gary A. Stalaboin,
Selectman

**AMENDED
ORDINANCE NO. 105
ORDINANCE CONCERNING INDECENCY AND NUDITY**

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This chapter shall be known as the "Indecency and Nudity Ordinance for the Town of Plainfield, Connecticut."

Section 2 Policy Statement

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Section 3 Definitions

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

Erotic Fondling Touching a person's clothed or unclothed genitals, pubic area or buttocks where such fondling may lead to sexual gratification. *Harmful to minors* That quality of any description or representation in whatever form, of a prohibited sexual act or sexually explicit nudity when it predominantly appeals to the prurient, shameful or morbid interest of minors; when it is patently offensive to the prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and when taken as a whole, it lacks serious literary, artistic, educational, political or scientific value for minors.

Inspector means an employee of the Northeast District Department of Health authorized and designated by the director of health, or the zoning enforcement officer, or an employee of the Plainfield Building Department or a member of the Plainfield Police Department, or the Plainfield Fire Marshal, or an agent of any or all such persons who is designated by the board to inspect premises regulated under this chapter in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

Masturbation - The real or simulated touching, rubbing, or otherwise stimulating a person's own clothed or unclothed genitals, pubic area, buttocks, or if the person is a female, breast, either by manual manipulation or with an artificial instrument.

Material - Anything tangible which is capable of being used or adapted to arouse prurient, shameful or morbid interest, whether through reading, observation, sound or any other manner. Material or a performance is "obscene as to minors" if it depicts a prohibited sexual act or sexually explicit nudity and, taken as a whole, it is harmful to minors.

Minor-Any person that is seventeen (17) years old or younger.

Nudity- The showing of the human male or female genitals, pubic areas or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola or the depiction of covered male genitals in a discernibly turgid state.

Public place - for this chapter is defined as municipal property, town and state roads, places of public gathering, parks, schools, beaches.

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Sadomasochistic abuse - Flagellation or torture by or upon a person clad in, undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual excitement - The condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sexual intercourse - Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between person of the same or opposite sex, or between human and an animal, or with an artificial genital.

Sexually explicit nudity - showing of the human male or female genitals, pubic areas or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola or the depiction of covered male genitals in a discernibly

turgid state where such showing may reasonably expect to be viewed by another person for the purpose of sexual arousal or gratification.

Visibly displayed - That the material or performance is visible on a billboard, viewing screen, marquee, newsstand, display case or other similar display area that is visible from any part of the premises where a minor is or may be allowed or permitted or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which minors have unrestrained and a reasonably anticipated access and presence.

Section 4 Prohibited Activity

- a. No person having control or supervision of any business or commercial establishment or premises, with knowledge of the content and character of the material involved, shall intentionally or recklessly visibly display, exhibit, or otherwise expose to view, in that part of the premises, or immediately adjacent thereto, where a minor is or may be allowed, permitted or invited, as part of the general public or otherwise, all or any part of any material which contains on its cover, package or wrapping or within the advertisement thereof depictions or photographs of sexually explicit nudity or a prohibited sexual act.
- b. No person shall hire, employ or otherwise place, supervise, control or allow in any business or commercial establishment or other place any minor under circumstances which would cause, lead or allow such minor to engage in the business or activity promoting or otherwise handling material as described in Section. 3
- c. No business or commercial establishment shall allow sexually explicit nudity at any location where such sexually explicit nudity may reasonably be expected to be viewed by members of the public.
- d. Nudity is prohibited in public places under circumstances where nudity is likely to cause affront or alarm.

Sexually explicit nudity is prohibited in public places.

Section 5 Violations and penalties

1. Any person, partnership or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding one-hundred dollars (\$100.00) for each such violation
2. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each violation.
3. The fine will be issued by an inspector and collected by the Town Clerk's Office of the Town of Plainfield. All fines not paid within ten (10) days shall be doubled.

Section 6 Savings Clause

Should any court of competent jurisdiction declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter.

Dated at Plainfield, CT this 5th day of November 1998.

Amended November 30, 1998.

The amendment shall become effective fifteen days after publication in accordance with the Connecticut General Statutes.