

Hartford Township, Van Buren County, Michigan
Ordinance Number 16
Hartford Township Pornographic Material Control Ordinance

An ordinance to protect and secure public health, safety and general welfare by the regulation of the public display of pictorial, printed or manufactured offensive pornographic material within the Township of Hartford: to provide penalties for the violation of the provisions of this ordinance, and to repeal any ordinances or parts of ordinances in conflict herewith.

The Township of Hartford Ordains:

Section 1. Title. This Ordinance shall be known and cited as the Hartford Township Pornographic Material Control Ordinance.

Section 2. Regulations. It shall be unlawful for any person acting in a managerial capacity or being the owner, proprietor, operator or manager of a business to knowingly place pornographic, offensive material upon public display, for purposes of sale, entertainment, or distribution, or fail to take prompt action to remove such a display from property in his control after learning of its existence. The prohibition of this section shall not apply to broadcasts or telecasts through facilities licensed under the Federal Communications Act.

Section 3. Definitions. For purposes of this Ordinance:

- A. “Pornographic material” means any picture, photograph, drawing, sculpture, motion picture, film, model, devise or other visual representation or image depicting uncovered, or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.
- B. “Offensive” means that the work in which the representations appear, taken as a whole by the average person, applying contemporary community standards, appeals to the prurient interest and depicts or portrays the prohibited pornographic material in a patently offensive way, and which lacks serious literary, artistic, political, or scientific value.
- C. “Public display”, in the context of films or motion pictures, means the projection of said films or motion picture on any viewing screen inside or outside a building or theatre. In the context of photographs, drawings, sculptures, or other visual representations or printed material, “public display” shall mean the placing of materials within the definition of subparagraph “A” and “B” on or in a newsstand, display rack, window, showcase, display case or similar place so that said material is easily visible from a public thoroughfare, from the property of others, from a common walk or mall, or from that portion of the interior of places of business generally open to persons under the age of majority while such material is displayed.

Section 4. Penalties. ~~Every person who violates or refuses to comply with any section of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, he shall be punishable by a fine of not to exceed One Hundred Dollars (\$100.00), or by imprisonment for not to exceed ninety (90) days or by both. Each day during which a violation continues shall be deemed a separate offense. In addition to the criminal sanctions herein provided, the Township may institute injunctive proceedings or other appropriate civil proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.~~ ***Amended June 17, 2013 by Ordinance No 38a**

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

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	Minimum Fine	Maximum Fine
1 st Offense within 3-year period*	\$ 75.00	\$500.00
2 nd Offense within 3-year period*	\$150.00	\$500.00
3 rd Offense within 3-year period*	\$300.00	\$500.00
4 th or More offense within 3-year period*	\$500.00	\$500.00

*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Hartford Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent Jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

Section 5. Saving Clause. The provisions of this Ordinance are hereby declared to be separable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

Section 6. Repeal. All ordinances, resolutions or orders, or parts thereof, of the Township of Hartford, in conflict with the provisions of this ordinance are, to the extent of such conflicts, hereby repealed.

Section 7. Effective Date. This ordinance shall take effect on the 1st day of August, 1979.

*Adopted by the Township Board of Township of Hartford, Michigan on June 13, 1979
Effective August 1, 1979*