

TITLE IX BUSINESS ORDINANCE

Chapter 4 Ordinance Prohibiting Obscenity for Commercial Gain

401 Purpose

Purpose of this Ordinance is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The Town has enacted this Ordinance for the purpose of promoting and protecting the general welfare, public safety, public order and morals.

402 Definitions

402.1 Commercial Enterprise means any business, corporation, association, or natural person established for pecuniary gain other than a theater.

402.2 Theater means:

402.2.1 Any building or hall designed primarily for showing motion pictures, having a permanent movie screen and permanently fixed seats arranged in such fashion as to allow spectators an unobstructed view of the screen.

402.2.2 An open-air theater designed primarily for showing motion pictures, having a permanent movie screen and permanent devices for broadcasting movie sound tracks in motor vehicles.

402.2.3 Any playhouse, hall or similar structure designed primarily for legitimate artistic expression.

402.3 Present means to show, reveal, display or expose to any person.

402.4 Engage means to solicit, produce, direct, finance, physically partake in, compensate others for, further the interest of, or be otherwise involved with the proscribed conduct.

402.5 Obscene means any conduct of a sexual nature which:

402.5.1 To the average individual applying contemporary community standards, considered as a whole, appeals to the prurient interests;

402.5.2 Presents in a patently offensive manner actual or simulated ultimate sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in context of ultimate sexual acts, lewd exhibition of the human male or female genitals, pubic area, buttocks or the female breast below the top of the nipple;

402.5.3 Considered as whole lacks serious literary, artistic, political or scientific value.

402.6 Exhibition means any aural visual or tactile performance, dramatization, show or display which includes any amount of human, animal, or animated conduct whether presented live or by way of mechanical reproduction, sound recording, audio-visual cassette or tape, silhouette depiction or by any other means.

403 **Prohibition**

403.1 It shall be unlawful for any commercial enterprise to present for profit any obscene exhibition within the Town of Ogunquit.

403.2 It shall be unlawful for any commercial enterprise to engage in any obscene exhibitions for profit within the Town of Ogunquit.

403.3 It shall be unlawful for any commercial enterprise to solicit, permit, promote, or assist any commercial enterprise or person to present or engage in any obscene exhibitions within the Town of Ogunquit.

404 **Exceptions**

This Ordinance is not intended to regulate any conduct expressly regulated by existing State Statute.

405 **Penalty**

405.1 Any conduct made unlawful by this Ordinance and any violation of this Ordinance shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense. Fines collected for violation of this Ordinance shall be recovered for the use of the Town of Ogunquit.

405.2 In addition to any other penalty by law, the commission of acts prohibited by this Ordinance shall constitute a nuisance and may

be abated by the Town seeking an injunction to prohibit further and continued violations.

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Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.