

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 8 - 88

AN ORDINANCE REGULATING THE LOCATION OF ADULT
BOOK STORES IN MIDDLESEX TOWNSHIP, CUMBERLAND
COUNTY, PENNSYLVANIA, AND PROVIDING PENALTIES
FOR VIOLATION THEREOF.

BE IT ENACTED AND ORDAINED, and it is hereby enacted and
ordained under the authority of the Second Class Township Code,
Act of May 1, 1933, P.L. 103, as amended, (53 P.S. §65101 et
seq.) by the Board of Township Supervisors in and for the
Township of Middlesex, Cumberland County, Pennsylvania, as
follows:

SECTION 1. DEFINITIONS.

As used in this Ordinance, the following terms, words and
phrases shall have the meanings ascribed to them by this Section:

A. "Adult Book Store" means a business
establishment of any size or description having any
portion of its stock-in-trade, including but not
limited to books, magazines, films, photographs,
drawings, visual representations or writings,
distinguished or characterized by emphasis on matter
depicting, describing or related to specified
anatomical areas or to specified sexual activities,
or a business establishment having a segment or
portion of its premises devoted to the display or
sale of such material.

B. "Specified anatomical areas" means:

(1) Human genital organs and pubic regions, male and/or female;

(2) Human buttocks, male and/or female;

(3) Human female breasts below a level immediately above the top of the areola.

C. "Specified sexual activities" means:

(1) Human male genital organ in a discernibly turgid state of sexual stimulation or arousal;

(2) Acts of human sexual intercourse, human masturbation, human sodomy, deviate sexual intercourse between human beings, human sexual intercourse with an animal.

(3) Fondling, indecent contact or other erotic touching of specified anatomical areas.

SECTION 2. PROHIBITED ACTIVITY.

It shall be unlawful to establish or maintain or permit to be established or maintained any Adult Book Store:

A. Within the following zoning districts as now constituted or as hereafter created or extended by or under the Middlesex Township Zoning Ordinance. (The

designation and description of said districts under said Zoning Ordinance being incorporated herein by reference thereto.):

- (1) OS - Conservation/Open Space District
- (2) RF - Residential Farm District
- (3) RC - Residential Country District
- (4) RS - Residential Suburban District
- (5) CG - Commercial General District
- (6) CH - Commercial Highway District

B. Within five hundred (500) feet of the geographical boundary line of any of the zoning districts enumerated in Paragraph A. immediately above.

C. Within five hundred (500) feet of any building or other structure being used for residential purposes.

D. Within one thousand (1,000) feet of any school (public, private or parochial), church, synagogue or any other Adult Book Store.

SECTION 3. ENFORCEMENT.

The Secretary of Middlesex Township, or his designee, shall enforce the provisions of this Ordinance with the assistance and cooperation of the Middlesex Township Police Department.

SECTION 4. NOTICE OF VIOLATION.

The person charged with enforcement of this Ordinance

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pursuant to Section 3, shall serve written notice of the violation of this Ordinance upon the person then in charge of the Adult Book Store and/or upon the owner, lessee or other occupant of the premises constituting the Adult Book Store, and/or upon the lessor or licensor of the premises constituting the Adult Book Store, and/or upon the agent of any of the foregoing. Said notice shall indicate the date, the fact of the violation of this Ordinance and a directive that such violation must be terminated and discontinued immediately.

SECTION 5. PENALTY.

Any person receiving notice as provided in Section 4 above who fails, refuses or neglects to obey the directive thereof, and any person who knowingly commits, participates in or permits any violation of this Ordinance shall be guilty of and liable for a summary offense, and upon conviction before a District Justice, shall be sentenced and ordered to pay a fine not exceeding Three Hundred (\$300.00) Dollars and the costs of the action. In default of payment of such fine and/or costs, such person may be sentenced and committed to the Cumberland County Prison for a period not exceeding thirty (30) days.

Each day that such violation continues after notice as provided in Section 4 above shall constitute a separate violation hereof punishable as such without separate or additional notice after the initial notice given as prescribed above.

SECTION 6. DECLARATION OF NUISANCE; CIVIL ABATEMENT.

A. The Board of Township Supervisors hereby determines and declares that the continued maintenance of an Adult Book Store in violation of this Ordinance is contrary to the health, welfare and morals of the residents of the Township of Middlesex and is, therefore, a public nuisance and subject to abatement by appropriate civil action.

B. The Middlesex Township Secretary is hereby authorized and empowered without further direction by the Board of Supervisors to institute such action at law or in equity in any court having jurisdiction to abate such nuisance and enjoin and terminate the continued violation of this Ordinance.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective in accordance with law.

SECTION 8. SEVERABILITY.

In the event that any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of this Board of Township Supervisors that such remainder shall be and remain in full force and effect.

ENACTED AND ORDAINED this 11 day of November ,
1988.

TOWNSHIP OF MIDDLESEX

BY Albert M. Shover
Chairman, Board of Township
Supervisors

ATTEST:

A. E. Preston
Township Secretary

(Township Seal)