

CHAPTER 33

OBSENE MATERIALS AND OBSCENEN PERFORMANCES

33.01 DEFINITIONS.

A. In this section, the following words shall have the following definitions:

Obscene Material means a visual recording, photographs, sound recording or film and **Obscene Performance** means a live exhibition before an audience which:

- (1) The average person, applying contemporary community standards, would find appeals to prurient interests if taken as a whole;
- (2) Under contemporary community standards, describes or shows explicit sexual conduct in a patently offensive way; and
- (3) Lacks serious literary, artistic, political or scientific value as measured by objective standards if taken as a whole.

B. **Sexual Conduct** means the commission or detailed visual depiction of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, or lewd exhibition of human genitals.

33.02 VIOLATIONS.

A. Whoever does any of the following with knowledge of the character and content of the material or performance is guilty of a violation of the Allouez Municipal Code:

- (1) Imports, produces, advertises, sells, has in his or her possession for sale, or exhibits or transfers any obscene material.
- (2) Advertises, produces or performs in any obscene performance.
- (3) Has in his or her possession, with intent to transfer or exhibit to a person under the age of 18 years, any obscene material.
- (4) Transfers or exhibits any obscene materials to a person under the age of 18 years.
- (5) Requires, as a condition to the purchase of periodicals, that a retailer accept obscene material.

B. In determining whether material is obscene under subsection 33.01 A. (1) and (3), a judge or jury shall examine individual pictures or passages in the context of the work in which they appear or hear relevant testimony in the case of a live performance or exhibition before an audience.

33.03 PENALTY.

Any person who shall violate any provision of this ordinance shall, upon conviction thereof, forfeit not less than \$500.00 nor more than \$1,000.00 together with the costs of prosecution and in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

33.04 SEVERABILITY AND NON-LIABILITY.

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.