

ARLINGTON COUNTY CODE

Chapter 56

OBSCENITY

§ 56-1. Definitions.

§ 56-2. Obscene Items Enumerated.

§ 56-3. Unlawful Acts.

§ 56-4. Penalties.

§ 56-5. Severability.

§ 56-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Person” means any individual, partnership, firm, association, corporation or other legal entity.

“Obscene” means that which, considered as a whole:

- A. Has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or projects thereof or sadomasochistic abuse; and
- B. Which contains patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or masturbation or excretory functions or lewd exhibition of the genitals; and
- C. Which goes substantially beyond customary limits of candor in description or representation of such matters; and
- D. Which, taken as a whole, does not have serious literary, artistic, political or scientific value.

“Distribute” means delivery in person, by mail, messenger, or by any other means by which obscene items as defined in this chapter may pass from one person, firm, or corporation to another.

“Genital” or “genital part” means the penis, genitals, pubic area, anus, perineum or vulva of any person.
(10-9-76)

§ 56-2. Obscene Items Enumerated.

Obscene items shall include:

- A. Any obscene book; or
- B. Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, photograph, film, negative, slide, motion picture; or
- C. Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds.
(10-9-76)

§ 56-3. Unlawful Acts.

A. *Production, publication, sale, possession of obscene items.* It shall be unlawful for any person knowingly to:

1. Prepare any obscene item for the purposes of sale or distribution; or
2. Print, copy, manufacture, produce, or reproduce any obscene item for purposes of sale or distribution; or
3. Publish, sell, rent, lend, transport in intrastate commerce, or distribute or exhibit any obscene item, or offer to do any of these things; or
4. Have in his possession with intent to sell, rent, lend, transport, or distribute any obscene item. Possession in public or in a public place of any obscene item as defined in this article shall be deemed prima facie evidence of a violation of this section.

B. *Obscene exhibitions and performances.* It shall be unlawful for any person knowingly to:

1. Produce, promote, prepare, present, manage, direct carry on or participate in, any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene; provided that no employee of any person or legal entity operating a theatre, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theatre or an officer of such entity, and has no financial interest in such theatre other than receiving salary and wages;
2. Own, lease or manage any theatre, garden, building, structure, room or place and lease, let, lend or permit such theatre, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theatre, garden, building, structure, room or place.

C. *Advertising, etc., obscene items, exhibitions or performances.* It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in Chapter 56, or of any obscene performance or exhibition proscribed in § 56-3.B, stating or indicating where such obscene item, exhibition, or performance may be purchased, obtained, seen or heard.

D. *Placards, posters, bills, etc.* It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing, or picture which is obscene, or which advertises or promotes any obscene exhibition or performance proscribed in § 56-3.B or knowingly to permit the same to be displayed on property belonging to or controlled by him.

E. *Photographs, slides, and motion pictures.* It shall be unlawful for any person knowingly to:

1. Photograph himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or
2. Model, pose, act, or otherwise assist in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

F. *Coercing acceptance of obscene articles or publications.* It shall be unlawful for any person, as a

condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication to require that the purchaser or consignee receive for resale any other article, book, or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof.

G. *Employing or permitting minor to assist in offense under chapter.* It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this chapter.

H. *Exceptions to application of chapter.* Nothing contained in this chapter shall be construed to apply to:

1. The purchase, distribution, exhibition, or loan of any book, magazine, or other printed or manuscript material by any library, school, or institution of higher learning, supported by public appropriation.
2. The purchase, distribution, exhibition, or loan of any work of art by any museum or fine arts, school, or institution of higher learning, supported by public appropriation.
3. The exhibition or performance of any play, drama, tableau, or motion picture by any theatre, museum of fine arts, school, or institution of higher learning, supported by public appropriation.

(10-9-76)

§ 56-4. Penalties.

Every person convicted of an offense violating this Chapter shall, upon conviction, be guilty of a Class 1 misdemeanor.

(10-9-76; Ord. No. 91-34, 9-18-91)

§ 56-5. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this chapter or the application of such provisions to other persons or circumstances but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.

(10-9-76)