

Chapter 16
OBSCENITY

- Sec. 16-1. *Obscene* defined.
- Sec. 16-2. Obscene items enumerated.
- Sec. 16-3. Production, publication, sale, possession, etc., of obscene items; *distribute* defined.
- Sec. 16-4. Obscene exhibitions and performances generally.
- Sec. 16-5. Advertising obscene items, exhibitions or performances generally.
- Sec. 16-6. Obscene placards, posters, bills, etc.
- Sec. 16-7. Proceeding against obscene book or motion picture film.
- Sec. 16-8. Applicability of chapter.

Chapter 16
OBSCENITY¹

Sec. 16-1. *Obscene* defined.

As used in this chapter, the word *obscene* means that which, considered as a whole, has as its dominant theme or purpose an appeal to prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof, or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters, and which, taken as a whole, lacks serious literary, artistic, political or scientific value. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-2. Obscene items enumerated.²

For the purposes of this chapter, obscene items shall include:

- (1) Any obscene book;
 - (2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, video tape or disc, slide, motion picture, video recording;
 - (3) 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; or
 - (4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in perceivable form.
- (Comp. 1974, ch. 17; Ord. 4-1-85; Ord. 11-18-15)

Sec. 16-3. Production, publication, sale, possession, etc., of obscene items; *distribute* defined.

- (A) It shall be unlawful for any person to knowingly:
 - (1) Prepare an obscene item for the purpose of sale or distribution; or

¹ For state law as to obscenity and related offenses, see Code of Va., § 18.2-372 et seq.

² For similar state law provision, see Code of Va., § 18.2-373.

- (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 such person's 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 shall be deemed prima facie evidence of a violation of this Chapter.

(B) For the purposes of this Chapter, *distribute* shall mean delivery in person or by mail or messenger or by any other means by which obscene items may pass from one person to another.

(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-4. Obscene exhibitions and performances generally.

It shall be unlawful for any person to knowingly:

(A) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibition or performance, 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 theater, 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 theater or an officer of such entity, and has no financial interest in such theater, other than receiving salary and wages; or

(B) Own, lease or manage any theater, garden, building, structure, room or place and lease, let, lend or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance.

(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-5. Advertising obscene items, exhibitions or performances generally.

No person shall knowingly prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item referred to in this chapter, or of any obscene performance or exhibition referred to in this Chapter, stating

or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-6. Obscene placards, posters, bills, etc.

It shall be unlawful for any person to knowingly 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 item referred to in this Chapter, or any obscene exhibition or performance referred to in this Chapter, or to knowingly permit the same to be displayed on property belonging to or controlled by such person. (Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-7. Proceeding against obscene book or motion picture film.

(A) Whenever any citizen of the county or the county attorney has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book in the county, such citizen or the county attorney may institute a proceeding in the circuit court of the county for adjudication of the obscenity of the book.

(B) The procedure for such proceeding shall be identical in all particulars to that set forth in section 18.2-384 of the Code of Virginia, as effective April 1, 1985, which is hereby incorporated by reference into this chapter *mutatis mutandis* and shall likewise apply to motion picture films as set forth in section 18.2-385 of the Code of Virginia, as effective April 1, 1985.
(Comp. 1974, ch. 17; Ord. 4-1-85)

Sec. 16-8. Applicability of chapter.

Nothing contained in this chapter shall be construed to apply to:

(A) 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;

(B) The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning supported by public appropriation; or

OBSCENITY

2-18-16

(C) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum of fine arts, school or institution of higher learning supported by public appropriation.

(Comp. 1974, ch. 17; Ord. 4-1-85)