

Chapter 7

LEWDNESS, PROFANITY, NUDITY, OBSCENITY AND PORNOGRAPHY

SECTION:

- 5-7-1 Unlawful Acts.
- 5-7-2 Definitions.
- 5-7-3 Saving Clause.
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5-7-1 **UNLAWFUL ACTS:** The following acts are hereby declared to be unlawful if done in any public place:

- A. The use of abusive, menacing, insulting, slanderous or profane language; or the uttering of obscenities.
- B. For any person to willfully participate in any patently offensive act, representation or description of ultimate sexual acts, whether normal or perverted, actual or simulated.
- C. To knowingly or willfully bathe in the nude in public or in such a manner that the nude body is exposed to the view of other persons.
- D. To willfully participate in or allow patently offensive acts, representations or descriptions of excretory functions and/or lewd exhibition of the genitals.
- E. To expose his or her private parts or go nude, or topless (if female) or bottomless in any public place or to procure, counsel, or assist any other person to so expose themselves.
- F. To urinate or stool in any public place (except public restrooms) or in any place exposed to public view or to procure, counsel, or aid any other person to so do.
- G. To possess, import, write, compose, stereotype, print, design, copy, draw, paint, or otherwise prepare, publish, offer for sale, display, exhibit by machine or otherwise or distribute or furnish any writing, paper, book, picture, magazine, pamphlet, print, design, figure, still or motion picture, photograph, or negative thereof, photocopy, engraving, sound or video recording, card, instrument or other such article which depicts or represents or describes any obscene sexual conduct, or obscene performance or sadomasochistic abuse, with the intent to distribute or exhibit the same or use the same for advertising purposes, or to exhibit the same in any public place.
- H. To buy, procure, receive or possess any writing, paper, book, picture, drawing, magazine, pamphlet, print, design, figure, still or motion picture, photograph or negative thereof, photocopy, engraving, sound or video recording, card instrument or other article which depicts or represents or describes obscene sexual conduct and/or obscene performance, obscenities or sadomasochistic abuse with the intent to distribute or exhibit the same, or to exhibit the same in any public place, or use the same for advertising purposes.
- I. For any person, firm, or corporation to distribute or to exhibit any materials as obscene materials, whether or not the same are actually obscene, or to advertise as obscene any publications, film, picture or writing when the act of so doing shall amount to

pandering or advertising of obscene materials.

J. For any distributor or wholesaler to require as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical, publication, film, or other merchandise that the purchaser, consignee, or distributor receive any other material, which is obscene or is believed by the purchaser or consignee to be obscene or is advertised by the distributor to be obscene or to deny or threaten to deny any franchise, license, distributorship or contact or revoke or threaten to revoke or impose any penalties financially or otherwise, by reason of a failure or refusal of such purchaser or consignee, to accept such materials or to do such acts by reason of the return of said materials. (Am 2006-49)

5-7-2 **DEFINITIONS:** As used in this Chapter, the following words will have the following meanings, unless the context requires otherwise:

WILLFULLY simply a purpose or willingness to commit the act or to omit an act referred to herein.

KNOWINGLY to have actual or constructive knowledge of the contents of the subject matter. A person has constructive knowledge if a reasonable inspection under the circumstances would have disclosed the nature of the subject matter and if the failure to inspect is for the purpose of avoiding such disclosure. Knowledge of the obscene nature of material shall be presumed when a person fails to inspect materials after receiving a complaint as to the obscene nature thereof.

ADVERTISING PURPOSES purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service or the commercial exhibition of an entertainment.

DISPLAY PUBLICLY the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private an item in a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

PERSON shall not be limited to individuals only but shall include public and private corporations, firms, joint-associations, partnerships and the like. The word "person" as used herein, shall apply to a natural person and shall apply equally to the male and female genders.

FURNISHES to sell, give, rent, loan or otherwise provide.

NUDE OR NUDITY uncovered, or less than opaquely covered buttocks, human genitals, pubic areas, the human female breast below a point immediately

above the top of the areola, or the covered human male genitals in a discernibly turgid state or in a condition of sexual excitement. For purposes of this definition, a female breast is considered uncovered if the nipple and the areola only are covered.

OBSCENE PERFORMANCE a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity as part of explicit sexual conduct or sadomasochistic abuse, or which includes explicit verbal description or narrative accounts of obscene sexual conduct.

OBSCENITIES those slang words currently and generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily sexual or excretory meaning.

SADOMASOCHISTIC ABUSE flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

DISTRIBUTE transfer possession of or permit to be viewed, heard or examined, with or without consideration.

SEXUAL CONDUCT human masturbation, sexual intercourse, or any touching of the covered or uncovered genitals, human female breast, pubic areas or buttocks of the human male or female, whether alone or between members of the same or opposite sex or between humans and animals, in an act of apparent sexual stimulation or gratification, which term shall include, but not limited to fellatio, cunnilingus, pederasty, and bestiality

SEXUAL EXCITEMENT the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.

OBSCENE an act, depiction, representation, description, obscene performance, or any other item, material or conduct in this chapter described, whether actual or simulated in form, which:

A. taken as a whole, the average person would find appeals to the prurient interest when applying contemporary

- community standards;
- B. it is presented in a patently offensive way by going substantially beyond customary limits of candor in description or representation of the aforesaid matters in the community; and,
- C. taken as a whole, lacks serious literary, artistic, political, or scientific value.

PRURIENT INTEREST a shameful or morbid interest in nudity, sex, or excretion.

PUBLIC PLACE a place accessible or visible to member’s of the public or to casual passersby; or any place where a fee or charge is made for entrance or membership.

PANDERING catering to the lust or gratification of lust of another.

5-7-3 **SAVING CLAUSE:** In the event any word, sentence, paragraph or section of this Chapter shall be found to be unconstitutional, it shall not affect the constitutionality or enforceability of the remainder of this Chapter which is not specifically found unconstitutional.

5-7-4 **SEPARATE OFFENSES:** Each separate act or occurrence which is prohibited under this Chapter shall constitute a separate offense and shall separately be treated as a misdemeanor under the Providence City Code.