

OBSCENITY DISPLAY ORDINANCE

4-181 Prohibited Conduct

In any premises open to the general public, it shall be unlawful for any person to knowingly display, or knowingly permit or allow the display, for purposes of sale, any book, magazine, picture, photograph, drawing or similar visual representation or image of a person or portion of the human body, or which the outside covers or other portions exposed to public view are obscene or contain sexually explicit material, as either term is hereinafter defined. It is the express intent of this ordinance to make it unlawful to knowingly display such material in plain view of minors in such places.

4-182 Penalty

The penalty for violation of this ordinance shall be a fine of not less than \$50.00 and not more than \$100.00. Each day of violation shall constitute a separate offense, each subject to the penalty set forth herein.

4-183 Definitions

- (a) "Obscene" means that applying contemporary community standards:
 - (1) The predominant appeal of the work taken as a whole is to the prurient interest; i.e., a shameful or morbid interest in sexual conduct, nudity, or excretion, and
 - (2) The work depicts or describes in a patently offensive manner sexual conduct defined by Section 4-183 (a), and
 - (3) The work, taken as a whole, lacks any serious literary, artistic, political or scientific value.
- (b) "Sexual Conduct" means patently offensive representations or descriptions of sexual intercourse, or acts of apparent sexual stimulation or gratification, such as, cunnilingus, anilines, sadism, masochism, fellatio, masturbation, bestiality, sodomy, excretory functions or lewd exhibition of genitalia.
- (c) "Work" means anything tangible which is capable of being used or adapted to arouse interest whether through the medium of reading, observation, hearing or in any other manner.
- (d) "Person" means any individual, partnership, firm, association, corporation, trustee, lessee, agent, assign or other legal entity.
- (e) "Display" means to exhibit as an inducement for individuals to view, peruse, or purchase. "Display" shall not include works and materials exhibited in an area conspicuously prohibited to minors which prohibition is enforced.
- (f) "Knowingly" means having actual or constructive knowledge of the content and character of the work. A person shall be deemed to have constructive knowledge of the content and character of a work if he has knowledge of facts which would put a reasonably prudent on notice as to the nature of the work.
- (g) "Patently Offensive" as used in this ordinance means that which goes beyond the customary limits of candor applying contemporary community standards.
- (h) "Minor" means any person under the age of 18 years.
- (i) "Sexually Explicit Material" means any pictorial material depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal

intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these Subsections. Works of art or of anthropological significance are not included within the definition of this Subsection.

4-184 Concealment From Streets and Sidewalks

Obscene works and explicit sexual material shall not be displayed so as to be visible from any street, way or sidewalk whether within or without a building.

4-185 Concealment of Covers

Obscene works and explicit sexual material displayed within any building to which the public, including minors, are admitted shall be concealed or covered by a wrapper or jacket where the covers of said works or material contain photos, drawings, depictions and/or words the display of which is prohibited by this ordinance.

4-186 Concealment of News Racks

Persons displaying obscene works and sexually explicit materials within a building to which minors are admitted shall be considered to be in compliance with this ordinance where the materials are stored in racks which conceal the covers of such works and material except for the title strip at the top.

4-187 Display in Areas Barred to Minors

Where such works and materials are openly displayed in a room or other enclosure from which minors are barred, said works and materials shall not be visible in any other portion of the premises to which minors are admitted.