

Chapter 9.20

CRIMES AGAINST PUBLIC DECENCY

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ARTICLE I. PROSTITUTION

9.20.010 Unlawful acts.

- A. A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.
- B. In any prosecution for prostitution, the sex of the two parties or respective parties to the sexual conduct engaged in, contemplated, or solicited is immaterial, and it is no defense that:
 - 1. That such persons are of the same sex; or
 - 2. The person who received, agreed to receive, or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female. (Ord. 400, 1981; Ord. 325, 1978.)

9.20.020 Penalty. Every person convicted of a violation of any provision of this article shall be guilty of prostitution, a gross misdemeanor. (Ord. 325, 1978.)

ARTICLE II. OBSCENITY

9.20.030 **Definitions.** For the purpose of this article, the following terms shall have the following meanings:

- A. "Distribute" means to transfer possession of, whether with or without consideration.
- B. "Exhibit" includes, but is not limited to, the display of material for distribution.
- C. "Material" means any book, magazine, newspaper or other printed or written matter, or any picture, drawing, photograph, motion picture or other pictorial representation, or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or matter.
- D. "Obscene," for the purpose of this article, means material, or an exhibition or performance, which:
 - 1. To the average person applying contemporary community standards, the dominant theme of the material, exhibition or performance, taken as a whole, appeals to the prurient interest in sex or sexual matters; and
 - 2. The material, exhibition or performance is patently offensive because it affronts contemporary community standards in its representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or of masturbation, excretory functions or lewd exhibition of the genitals; and
 - 3. The material, exhibition or performance, taken as a whole, lacks serious literary, artistic, political or scientific value.
- E. "Person," for the purpose of this chapter and unless it otherwise clearly appears from the context in which it is used, means and includes natural persons of either sex, associations, firms, co-partnerships and corporations, whether acting by themselves or by servants, agents or employees, and the singular number includes the plural and the masculine pronoun includes the feminine. (Ord. 325, 1978.)

9.20.040 **Unlawful acts.** It is unlawful for any person having knowledge of the contents thereof, to:

- A. Sell, distribute or display for sale or distribution any material which is obscene; or

- B. Have in his possession with intent to sell or distribute any material which is obscene. (Ord. 325, 1978.)

9.20.050 **Obscene performance.** It is unlawful for any person, having knowledge of the contents thereof, to cause to be performed or exhibited, or to engage in the performance or exhibition, of any show, act, play, dance or motion picture which is obscene. (Ord. 325, 1978.)

9.20.060 **Exceptions.** Nothing in this chapter shall apply to the circulation of any such material by any recognized historical society or museum, a state law library, any county law library, a state library, the public library, any library of any college or university, or to any archive or library under the supervision and control of the state, county, municipality or other political subdivision, including, but not limited to, the library of any school under the supervision of the Kiona-Benton City School District No. 52. In addition, the provisions of this chapter shall not apply to acts done in the scope of his employment as a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist has a financial interest in such theater or place wherein he is so employed or unless he caused to be performed or exhibited such performance or motion picture without the knowledge and consent of the manager or owner of the theater or other place of showing. (Ord. 325, 1978.)

9.20.070 **Penalty.** Every person convicted of a violation of any provision of this chapter shall be guilty of a gross misdemeanor. (Ord. 325, 1978.)

ARTICLE III. LEWD CONDUCT

9.20.080 **Lewd conduct defined.** As used in this article a "lewd act" is:

- A. An exposure of one's genitals or female breasts; or
- B. The touching, caressing or fondling of the genitals or female breasts; or
- C. Sexual intercourse; or
- D. Masturbation; or
- E. Urination or defecation in a place other than a washroom or toilet room. (Ord. 325, 1978.)

9.20.090 **Committing a lewd act.** A person is guilty of lewd conduct if he intentionally performs any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public. For the purpose of this article the term "public place" means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them. (Ord. 325, 1978).

9.20.100 **Liability of licensed premises.** The owner, manager or operator of premises open to the public wherein alcoholic beverages are sold, served or consumed, is guilty of committing lewd conduct if he intentionally permits or causes any lewd act on said premises. (Ord. 325, 1978.)

9.20.110 **Penalty.** It is unlawful for any person to engage in or permit lewd conduct as specified in this article. Every person convicted of a violation of the provisions of this article shall be guilty of lewd conduct, a gross misdemeanor. (Ord. 325, 1978.)