

§ 19-1.1. Definitions.

As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19-1(a), the following definitions shall apply:

- (1) "Breach of the peace" means repeated acts that disturb the public order including, but not limited to, homicide, assault, affray, communicating threats, unlawful possession of dangerous or deadly weapons, and discharging firearms.
- (1a) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness. With regard to nuisances involving assignation, prostitution, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, evidence that the defendant knew or by the exercise of due diligence should have known of the acts or conduct constitutes proof of knowledge.
- (2) "Lewd matter" is synonymous with "obscene matter" and means any matter:
 - a. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - b. Which depicts patently offensive representations of:
 1. Ultimate sexual acts, normal or perverted, actual or simulated;
 2. Masturbation, excretory functions, or lewd exhibition of the genitals or genital area;
 3. Masochism or sadism; or
 4. Sexual acts with a child or animal.

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.
- (3) "Lewdness" is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.
- (4) "Matter" means a motion picture film or a publication or both.
- (5) "Motion picture film" shall include any:
 - a. Film or plate negative;
 - b. Film or plate positive;
 - c. Film designed to be projected on a screen for exhibition;
 - d. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;
 - e. Video tape, compact disc, digital video disc, or any other medium used to electronically reproduce images on a screen.
- (6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.
- (7) "Place" includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.
- (7a) "Preserving the status quo" as used in G.S. 19-2.3 means returning conditions to the last actual, peaceable, lawful, and noncontested status

which preceded the pending controversy and not allow the nuisance to continue.

- (7b) "Prostitution" means offering in any manner or receiving of the body in return for a fee, for acts of vaginal intercourse, anal intercourse, fellatio, cunnilingus, masturbation, or physical contact with a person's genitals, pubic area, buttocks, or breasts, or other acts of sexual conduct offered or received for pay and sexual gratification.
- (8) "Publication" shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.
- (9) "Sale of obscene or lewd matter" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.
- (10) "Sale" as the term relates to proscribed acts other than sale of obscene or lewd matter shall have the same meaning as the term is defined in Chapter 18B and Chapter 90 of the General Statutes prohibiting the illegal sale of alcoholic beverages and controlled substances respectively.
- (11) "Used for profit" shall mean any use of real or personal property to produce income in any manner, including, but not limited to, any commercial or business activities, or selling, leasing, or otherwise providing goods and services for profit. (1977, c. 819, s. 3; 1981, c. 412, s. 4; c. 747, s. 66; 1999-371, s. 2.)