

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REGULATING THE DISTRIBUTION AND EXHIBITION OF OBSCENE MATTER WITHIN THE CITY LIMITS OF SUCH CITY, BY PROVIDING DEFINITIONS; BY PROHIBITING THE EXHIBITION OR DISTRIBUTION OF MATTER; BY REQUIRING THE INTRODUCTION OF MATTER INTO EVIDENCE; BY PROVIDING DEFENSES; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00); AND DECLARING AN EMERGENCY.

WHEREAS, the distribution and exhibition of obscene matter constitutes a continuing problem in the City of Mesquite, and

WHEREAS, past experience indicates that effective control of such matter may only be obtained through the enforcement of a city penal ordinance, and

WHEREAS, by Chapter 468 of the Acts of the 61st Legislature of Texas as same amends Article 527 of the Penal Code authorizes regulation by cities of such obscene matter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS:

SECTION 1. Definitions

That for the purposes of this Ordinance the following words or phrases shall have the meaning thereto setforth:

- A. Obscene material means material (a) the dominant theme of which, taken as a whole, appeals to a prurient interest; (b) which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and (c) which is utterly without redeeming social value.
- B. Prurient interest means a shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience, the appeal of the subject matter shall be judged with reference to such audience.

- C. Matter means any book, magazine, newspaper or other printed or written material 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 other articles, equipment, machines or materials.
- D. Person means any individual, partnership, firm, association, corporation or other legal entity, or any agent or servant thereof.
- E. Distribute means to transfer possession of, whether with or without consideration.
- F. Knowingly means having actual or constructive knowledge of the subject matter. A person shall be deemed to have constructive knowledge of the contents if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the material.
- G. Exhibit means to display or show any matter to any person under any circumstances whatsoever, or to have available for display or show any such matter under any circumstances whatsoever.

SECTION 2. Exhibition and Distribution of Obscene Matter Prohibited

That it shall be unlawful for any person to knowingly exhibit or distribute, or offer to exhibit or distribute, or have in his possession with the intent to exhibit or distribute any obscene matter within the city limits of the City of Mesquite, Texas

SECTION 3. Evidence

That no prosecution shall be brought under the provisions of Section 2 above without the introduction into evidence of the matter herein declared to be obscene.

SECTION 4. Defense

That the provisions of this ordinance shall not apply to persons who may exhibit or distribute obscene matter when such exhibition or distribution occurs in the course of bona fide law enforcement activities or in the course of scientific, educational, or comparable research or study, or like circumstances of justification where such exhibition or distribution is not related to the subject matter's appeal to prurient interest.

SECTION 5. Severability

That it is the declared intent of the City Council of Mesquite that the provisions of this ordinance be considered severable and in the event any such provision be declared invalid or unconstitutional for any reason such invalidity or unconstitutionality shall not affect the validity of those provisions hereof left standing.

SECTION 6. Penalty

That any person who shall violate the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than two-hundred dollars (\$200.00).

SECTION 7. Emergency

That the present ordinances of the City of Mesquite are inadequate to control the exhibition and distribution of obscene matter constitutes an urgency and an emergency in the interest of the public health, safety and welfare, and necessitates that this ordinance take effect immediately from and after its date of passage and the publication of its caption as the law in such cases provides.

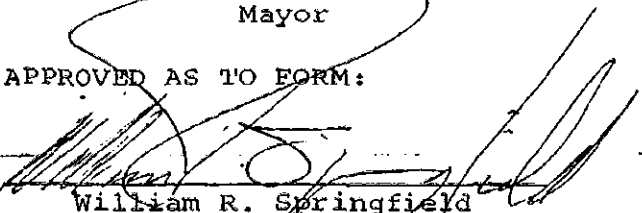
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, on this the 18th day of August A.D., 1969.


George Boyce
Mayor

ATTEST:

APPROVED AS TO FORM:


~~Norma G. McCaughy~~ Sue M. Frost
Acting City Secretary


William R. Springfield
City Attorney

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