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WHEREAS, recent State legislation and Federal Court decisions have caused the office of the Corporation Counsel of the City of Abilene to review Chapter 2 of The Code of The City of Abilene, 1957, governing obscene exhibitions and it is the recommendation of the Principal Associate Corporation Counsel that said Chapter be amended in order to bring it into harmony with recent State legislation and Federal Court decisions; and,

WHEREAS, it is the desire of the Board of Commissioners to afford the citizens of the City of Abilene an ordinance which will protect its citizenry from obscene exhibitions and to enact an ordinance capable of being enforced; now, therefore,

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ABILENE, TEXAS:

SECTION 1: That Chapter 2 of The Code of The City of Abilene, Texas, 1957, be, and the same is hereby, repealed and that the following be, and is hereby, enacted and substituted therefor:

"CHAPTER 2. REGULATION OF OBSCENE EXHIBITIONS.

"Sec. 2-1. ESTABLISHMENT OF THE ABILENE EXHIBITION REVIEW BOARD. There is hereby established a body to be known as the Abilene Exhibition Review Board, which shall be referred to hereinafter as the "Review Board". The Review Board shall be composed of a Chairman and eight (8) members to be appointed by the Board of Commissioners of the City of Abilene, the Chairman and two (2) members to be appointed for a term of three (3)

"Sec. 2-4. CLASSIFICATION OF MOTION PICTURE FILMS. It shall be the duty of the Chairman of the Review Board, after enactment of this ordinance, to call a meeting of the owners, managers, or operators of motion picture film theaters in the Corporate Limits of the City of Abilene, Texas, and explain the purposes and intent of this ordinance. He shall further request that the owners, managers, or operators voluntarily classify motion picture films to be exhibited to the public in the City of Abilene, in their advertisements, billboards, and marquees, as to the type of audiences that said owners, managers, or operators believe the film to be exhibited to be most suitably adapted. If said owners, managers, or operators refuse to classify films to be exhibited to the public as requested by the Chairman of the Review Board, then the Review Board is authorized to make its own classification as to the type of audience the motion picture film is most suited and to publish for informational purposes only to the public in a newspaper of daily circulation in the City of Abilene on the amusement or entertainment pages thereof the Review Board's classifications. Furthermore, if, in the opinion of the Review Board, the voluntary classifications made by the owners, managers, or operators of the theaters are misleading as to the type of audience most suitable to films to be exhibited to the public, it may make its own classifications of those movies and publish it for informational purposes only, as they would in the case of films which are not voluntarily classified by the owners, managers, or operators of the theaters exhibiting films to the public. The Review Board is authorized to apply the procedures set forth in this section to other types of public exhibitions in the City of Abilene. Nothing in this section shall be construed as to make it unlawful for an owner, manager, or operator, or any of his or her agents, employees, or servants to exhibit a motion picture film or other public exhibition, to the public without first so classifying it as to the type of audience the film is most suited.

"Sec. 2-5. UNLAWFUL TO EXHIBIT OBSCENE FILMS. No person shall willfully exhibit or willfully assist in the exhibition of a motion picture film to the public in the City of Abilene, Texas, which is obscene.

"Sec. 2-6. UNLAWFUL FOR OTHER OBSCENE PUBLIC EXHIBITIONS. No person shall willfully produce, sponsor, or act in, or willfully assist in the production, sponsoring, or acting in of any live theatrical performance, play, drama, musical or other type show exhibited to the public in the City of Abilene, Texas, which is obscene.

"Sec. 2-7. DEFINITION OF OBSCENITY. For purposes of this ordinance, obscenity shall be defined as follows: 'If, to the average person applying contemporary community standards, the dominant theme of the exhibition or performance viewed as a whole appeals to prurient interests.'

"Sec. 2-8. EXCEPTION TO STATE LAW. Nothing in this ordinance shall be construed to regulate public exhibitions pre-empted by Article 527 of the Penal Code of the State of Texas, as amended."

SECTION 2: PENALTY. That any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed Two Hundred Dollars

(\$200.00) and each offense shall be deemed a separate violation and punishable as a separate offense.

SECTION 3: SEVERABILITY CLAUSE. Should any section, sub-section, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, sub-section, sentence, provision, clause or phrase of this ordinance, and same are deemed severable for this purpose.

PASSED ON FIRST READING this 31st day of August,
A. D. 1961.

The Board of Commissioners hereby finds that an emergency exists requiring suspension of the rule provided in Chapter 32 of the Charter of the City of Abilene, requiring that ordinances be read and passed at two separate meetings of the Board of Commissioners; said rule is hereby suspended and said ordinance is passed twice at one and the same meeting of the Board of Commissioners.

PASSED ON SECOND AND FINAL READING this 31st day of
August, A. D. 1961.

ATTEST:

MAYOR

CITY SECRETARY