

Ord #  
1085  
WHEREAS, public concern in Abilene for more and better protection for our youth and community from the onslaught of obscenity, filth and trash, in exhibitions has been demanded from our citizens.

WHEREAS, the City Commission feels that some designated group should be set up to protect our citizens in this field.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION  
OF THE CITY OF ABILENE:

SECTION I: That Chapter 2, as amended, of the Code of Ordinances of the City of Abilene, Texas, is hereby repealed, effective May 1, 1961.

SECTION II: That in place of Chapter 2, as above repealed, to become effective May 1, 1961, the following new Chapter 2, is hereby enacted to read as follows:

SECTION 2-1. Definitions:

- (1) "Minor" - as used in this ordinance shall include any person under the age of eighteen (18) years.
- (2) The terms "exhibit and exhibition" shall include motion pictures, vaudeville performances, plays, dramas, operas, floor shows,

consistant with the provisions of this ordinance and set dates of future meetings. The majority of the Board's Membership shall constitute a quorum for the transaction of business and in order to issue an official report or order under this ordinance, a minimum of five (5) members of said Board shall vote in favor of the report or order.

SECTION 2-4. Duties of the Review Board

It shall be the duties of the Review Board to:

- (1) To be informed of the contents of literary and/or pictorial publications, and advertisements published within the City of Abilene, Texas.
- (2) To be informed as to exhibits as herein defined which are being shown or which are planned to be shown within the City of Abilene, Texas.
- (3) To investigate and determine, in the interest of the public, concerning all publications and exhibits within the City of Abilene, Texas, to see if provisions of this crdinance and/or other laws of Local, State or National regulation are violated.
- (4) To file "Review Board Report" of any violations with the appropriate law enforcement agency where a violation is believed to occur and to secure and maintain evidence upon which such belief is based. Further to sign the necessary complaints and give necessary information to the proper law enforcement agency, to see that the violation may come before the proper court. It being the intent and purpose of this section that this Board shall be charged with an interest and desire to see that the appropriate law enforcement agency is made aware of and enforces the laws as they pertain to the public morals of publications and public exhibits, special attention for enforcement reports being directed to Articles 526, 527, 527a and 527b of Vernon's Texas Penal Code.

- (5) To file complaints against minors and parents (or guardians), as well as exhibitors, who violate the provisions of this ordinance or other Municipal,

(6) To Issue Orders classifying and/or banning the exhibitions within the City of Abilene, Texas, as

"A" - Acceptable for average persons.

"B" - Acceptable for adults and children at least twelve (12) years of age or older.

"C" - Objectionable for minors - can be shown or published only to or for persons at least eighteen (18) years of age or older unless accompanied by a parent or guardian.

"D" - Objectionable - Not recommended for public exhibition but not prohibited from showing if proper precaution is taken to see that no minors are admitted to exhibit unless accompanied by a parent or guardian. It being the opinion of the Board that such exhibit is obscene and generally offensive to public decency.

"E" - Excluded, prohibited and ban from public showing in Abilene, Texas, no showing shall be made under any circumstances as it is the opinion of the Board that the exhibit should be excluded and banned, as clearly obscene, offensive to public decency and to the terms of this ordinance.

It being the intent and purpose of these classifications that (1) "A" and "B" classifications are to be given to all exhibits which are not objectionable to the average person; (2) that "C" and "D" classifications be given to those exhibits which in the opinion of the Board violates good taste and which the ordinary person would consider objectionable for minors, and (3) that "E" classification be given only to those exhibits which are clearly obscene, objectionable and offensive to public decency and to the terms of this ordinance.

#### SECTION 2-5 Offenses

(1) It shall be unlawful for any commercial exhibitor to present any exhibit in the

CITY OF ABILENE, TEXAS, until he has filed with the Secretary of the Review Board, a notice in writing of his intention to present an exhibit. Such Notice to the Board by the exhibitor shall be filed not less than ten (10) days nor more than thirty (30) days prior to the proposed date of presentation of such exhibition. The filing of said Notice with the City Secretary shall constitute a filing with the Secretary of the Review Board.

If the Board has reason to believe that any exhibit being presented or proposed to be presented or exhibited in the City of Abilene, Texas, should be classified and limited to adults only and/or excluded as obscene, it may issue a report giving such exhibit a "temporary" classification.

A copy of the "temporary" classification, report shall be filed with the City Secretary and a copy served upon the exhibitor, which notice may be served either in person or by depositing the same in the U. S. Mail, addressed to the last known address of said exhibitor. Service upon any employee of an exhibitor shall be deemed sufficient notice to such exhibitor. Unless such operator shall file with the Secretary of the Review Board or City Secretary an appeal within seventy-two (72) hours, such temporary classification shall become permanent, final and binding.

Upon the filing of an appeal, the Chairman of the Review Board shall call a public hearing and meeting of his Board to hear the appeal.

Such hearing shall be scheduled within seventy-two (72) hours after the appeal is filed; failure to so schedule said hearing shall void the temporary classification order. Providing, that such hearing may be reset by the Review Board at that scheduled hearing date (1) upon motion of the person who the report is directed to or (2) by motion of the Review Board. Further providing that the hearing be held within a reasonable time not to exceed ten (10) days and that previous determinations and/or void orders shall not effect the Review Boards rights to refile any order.

PROVIDING that the Review Board shall have the authority to complete its hearing and file a report of such findings with the City Secretary within forty-eight (48) hours after said hearing; failure to so file said classification order and/or finding shall void the temporary classification.

(2) It shall be unlawful to exhibit any exhibition in the City of Abilene, Texas, after the Review Board has declared its finding and classification as "E" excluded . . . and filed its order banning said exhibit with the City Secretary of the City of Abilene, Texas.

(3) It shall be unlawful to exhibit any exhibition which has been classified "C" objectionable or "D" objectionable by the Review Board without first posting at the ticket office and at one other prominent location on or near the main entrance to said exhibition premises a sign in plain and legible letters not less than three (3) inches nor more than ten (10) inches in height the following:

- MINORS PROHIBITED-

UNLESS ACCOMPANIED BY PARENTS  
OR GUARDIANS

Violations of this prohibition are subject to fine of Two Hundred Dollars (\$200.00) and either or both parents (or guardians) and minors may be held liable for violations.

This  
(Give general description of exhibit)

has been classified by the Citizens Review Board of

Abilene, Texas, as:  
(Give classification and explanation  
of meaning of classification.)

(4) It shall be unlawful to sell tickets to, or permit "minors" to witness any exhibition which has been classified either "C" or "D", objectionable by the Review Board, unless accompanied by a parent (or guardian), who shall attend said exhibition with such minor.

It shall further be prima facie evidence in any court that said

classified exhibits if any minor is found within the exhibition premises without being accompanied by a parent (or guardian).

(5) It shall be unlawful for any minor to witness within the City of Abilene, an exhibit which has been classified "C" or "D", objectionable, or an "E" classification which has been ban from the City of Abilene by the Review Board unless accompanied by a parent (or guardian).

(6) It shall be unlawful for the parent (or legal guardian) of any minor to permit a minor to witness an exhibit which has been ban from the City of Abilene, or classified "C" or "D", unless the minor is accompanied by a parent (or guardian). It shall further be prima facie evidence in any court that said parent and/or legal guardian permitted his charge to witness said exhibit if said minor is found within the exhibition premises where any "C" or "D" classified or ban exhibit is shown unless accompanied by a parent or legal guardian.

(7) It shall be unlawful for any employee, ticket seller, cashier, ticket taker, or other person connected with or employed by an exhibitor, to aid in, assist with, or be connected with any violation under this ordinance.

(8) It shall be unlawful to show on the same program with an approved exhibit as a second feature, preview, short subject, trailer or other presentation any exhibit which if viewed alone would be objectionable to a reasonable person and which could be classified as "C", "D" or "E", objectionable by the Review Board under this ordinance.

Provided, that before attempting to show any such questionable exhibit under this section, that the owner and/or operator of a motion picture or theatre operation intending to exhibit any such exhibition, which a reasonable person would believe to be objectionable to the Review Board, shall not make such exhibit before requesting and receiving a prior determination by the Review Board as to its classification for such proposed exhibition.

A copy of all reports and/or records received by the Board shall be filed with the City Secretary of the City of Abilene for public information.

**SECTION 2-7. Appeal Procedure:**

In the event any person wishes to appeal from an order or decision of the Review Board he shall file a written notice of his appeal with the City Secretary, together with a true statement of facts in the case, the Board's decision and all points on which he is basing his appeal. Said appeal must be filed within seventy-two (72) hours after the Board has filed its decision with the City Secretary. Copies of said appeal shall also be served on the Mayor of the City of Abilene and each Member of the Board of Commissioners. After the appeal has been properly filed and the evidence that the Mayor and Commissioners have been served, has been filed with the City Secretary, then the Mayor of the City of Abilene, shall call a public hearing to hear the appeal. Such appeal hearing shall be called within ten (10) days and heard not later than fifteen (15) days after.

Such Hearing shall use the same procedure and time limitations as apply to the Hearing before the Review Board under this Ordinance.

**SECTION 2-8.** If any penalty or any provision is found in this ordinance to be in conflict with the State or Federal Law; then the superior law shall govern, it being the intent of this ordinance to work with, supplement and aid all levels of enforcement concerned with the protection of our Community from improper publication and exhibits; and in event any part or portion of this ordinance shall be held unconstitutional or illegal, it is hereby declared to be the finding of the Board of Commissioners that the balance and remainder of such ordinance; or any parts not in conflict, shall remain in full force and effect, as though separately passed and approved.

**SECTION 2-9.** Any person who shall violate any of the terms of this ordinance shall be guilty of a misdemeanor and upon conviction thereof in the Corporation Court shall be fined in any amount not to exceed Two Hundred Dollars (\$200.00) and each separate showing is a separate violation and shall

subject to the maximum of Two Hundred Dollars (\$200.00) and not to exceed

PASSED ON FIRST READING ON This 6th day of April, A. D.,  
1961.

After said passage a notice of time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, Said publication being on the 11th day of April, 1961, the same being more than one (1) week prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final hearing.

PASSED ON ITS SECOND AND FINAL READING on the 20th  
day of April, A. D., 1961.

S/ C. R. KINARD  
C. R. KINARD (mayor)

ATTEST:

S/ LILA FERN MARTIN  
LILA FERN MARTIN (City Secretary)

APPROVED:

S/ TRUMAN P. KIRK  
ASST. CORPORATION COUNSEL  
TRUMAN P. KIRK