

## ORDINANCE NO. 217-86

AN ORDINANCE FOR THE CITY OF WILLOW PARK REGULATING THE COMMERCIAL POSSESSION AND SALE OF OBSCENE MATERIAL AND DEVICES; PROVIDING A PENALTY AND AUTHORIZING PUBLICATION.

WHEREAS, the Board of Aldermen of the City of Willow Park deem it necessary for the benefit and welfare of the citizens of Willow Park to prohibit, insofar as possible, the sale of obscene matter within the community; NOW, THEREFORE,

BE IT ORDAINED BY THE BOARD OF ALDERMEN BY THE CITY OF WILLOW PARK TEXAS;

Sec. 1. THAT there is hereby established an Ordinance for the City of Willow Park regarding the sale of obscene matter within the community, which Ordinance shall read as follows:

Possession: distribution of obscene matter.

(a) Definitions. As used in this section:

(1) "Obscene" means material or a performance that:

(A) The average person, applying contemporary community standards, would find that, taken as a whole, appeals to the prurient interest in sex;

(B) Depicts or describes:

(1) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, heterosexual, sexual or homosexual, including sexual intercourse, sodomy, and sexual bestiality; or,

(ii) Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibitions of genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernably turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs;

and,

(C) Taken as a whole, lacks serious literary, artistic, political and scientific value.

(2) "Material" means anything tangible that is capable or being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an, audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

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(5) "Community" means the areas within the Limits of the City of Willow Park.

(6) "Obscene device" means a device including a dildo; or artificial vagina designed or marketed as useful primarily for the stimulation of human genital organs.

(b) Proscribed acts. A person commits an offense if, knowingly:

(1) He sells or possesses for sale any obscene material;

(2) He sells or possesses for sale any obscene device;

(3) He presents commercially an obscene performance or participates in that portion of the performance that makes it obscene.

(c) Minors. A person commits an offense if, in a business establishment open to persons under the age of 17 years, he displays a book, pamphlet, newspaper or magazine which depicts;

(1) Human sexual intercourse,, masturbation or sodomy;

(2) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

(3) Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast under the top of the areola; or,

(4) Human male genitals in a discernibly turgid state, whether covered or uncovered, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual or perversion for commercial gain.

(d) Affirmative defense. It is not innocent but calculated purveyance which is prohibited, This ordinance shall not apply to persons who may possess or otherwise distribute obscene matter or participate in conduct otherwise proscribed by this Ordinance when such possession, distribution or conduct occurs in the course of law enforcement activities or in the course of bona fide scientific, educational or comparable research or study or like circumstances of justification.

(e) The City Attorney is authorized to bring suit for injunction against any establishment which purveys obscene material or obscene devices or displays sexually explicit material to minors and this shall be in addition to the criminal sanctions imposed by this Ordinance.

Sec. 2. Any person, firm or corporation violating any provision of the foregoing Ordinance shall be deemed guilty of a misdemeanor and upon final conviction thereof fined in an amount not to exceed Two Hundred Dollars (\$200.00).

Sec. 3. It is hereby declared to be the intent of the Board of Aldermen that the sections, subsections, paragraphs, sentences, clauses, phrases and terms of this Ordinance are severable, and if any term, phrase, clause, sentence, paragraph, subsection or section of this Ordinance shall be declared invalid by the final decree of any court or competent jurisdiction, such invalidity shall not affect any of the remaining parts of this Ordinance, since the same would have been enacted by the Board of Aldermen without such invalid parts thereof had they been aware of such invalidity.

Sec. 4. The City Secretary is hereby authorized to cause publication of this descriptive caption and penalty clause of this Ordinance as an alternative method of publication provided by law.

Sec. 5. THAT this Ordinance shall be in full force and effect from and after the date of its passage and publication as above specified.

AND IT IS SO ORDERED.

Passed on this the 10th day of JUNE, 1986, by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

CITY OF WILLOW PARK

By: Richard Baack

Richard Baack

ATTEST:

Aref Hassan

Aref Hassan  
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Carter L. Hampton

CARTER L. HAMPTON  
CITY ATTORNEY