

1978

AN ORDINANCE DEFINING, AND PROHIBITING THE DISSEMINATION
AND/OR DISPLAY, OF "EXPLICIT SEXUAL MATERIALS" TO
MINORS

BE IT ORDAINED by the Fiscal Court of Franklin County, as follows:

1. Purpose. It is the purpose of this ordinance to regulate the direct commercial distribution of certain explicit sexual materials to minors in order to aid parents and guardians in supervising and controlling the access of minors to such materials. The Court finds that whatever social value such material may have for minors can adequately be served by its availability to young persons through their parents or guardians. It is also the purpose of this ordinance to prohibit open public display of certain explicit sexual materials, in order to protect persons from potential offense through involuntary exposure to such materials.
2. Definitions. For the purposes of this Section (a) "Explicit Sexual Material" means any pictorial or three dimensional material, or motion picture, or still picture, or photograph, or book, or pocket-book, or pamphlet, or magazine, the cover or contents of which depicts:

1. Human sexual intercourse, masturbation, sodomy, bestiality, oral or anal intercourse;
2. Direct physical stimulation or unclothed genitals;
3. Flagellation or torture in the context of a sexual relationship;
4. Or which emphasizes the depiction of adult human genitals, buttocks, or the female breast;

provided, however, that works of art or of anthropological significance, or materials when presented in a program or education in a church, school or college shall not be deemed to be within the foregoing definitions.

(b) "Disseminate" means to sell, lease or exhibit commercially and, in the case of an exhibition, to sell an admission ticket or to admit persons who have bought such a ticket or pass to the premises whereon an exhibition is presented.

(c) "Display for sale in an area to which minors have access" means display where minors are able to see it.

(d) Material is placed upon "public display" if it is placed on or in a billboard, viewing screen, theatre marquis, newsstand, display rack, window, showcase, display case or similar place so that matter bringing it within the definition of "explicit sexual material"

is easily visible from a public thoroughfare or from the property of others.

(e) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief, which warrants further inspection or inquiry of both of the following:

- (1) The character and contents of any material described herein which is reasonably susceptible of examination, and
- (2) The age of the person; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if a reasonable bona fide attempt is made to ascertain the true age of the person.

(f) "Minor" shall mean a person less than eighteen (18) years of age,

3(a). Offenses defined - A person is guilty of a violation of this ordinance if he or she (a) knowingly disseminates explicit sexual material to a minor or (b) knowingly displays "explicit sexual material" for sale in an area to which minors have access, unless such material has artistic, literary, historical, scientific, medical, educational or other similar social value for adults and access to such material is limited to adults, or (c) knowingly places explicit sexual material upon public display, or if he knowingly fails to take prompt action

to remove such a display from property in his possession after learning of its existence.

- (b) A person is guilty of a violation of this ordinance if he or she knowingly represents or in any manner holds himself or herself out to any other person as a parent or guardian of any minor when no such relationship in fact exists, and such minor thereafter acquires, by purchase or otherwise, any matter defined herein as "explicit sexual material" as a result of or upon the basis of such false representation.

4. Defense - It shall be an affirmative defense to a prosecution under this ordinance for the defendant to show:

(1) That the dissemination was made with the consent of a parent or guardian of the recipient or that the defendant was misled as to the existence of parental consent by a misrepresentation made by a person holding himself out as a parent or guardian of the recipient, or that the dissemination was made to the recipient by his teacher, or clergyman in the discharge of official responsibilities;

(2) That the recipient was married.

5. Exemption for broadcast - The prohibition of this Section shall not apply to broadcasts of telecasts through facilities licensed

under the Federal Communications Act, 47 U.S.C. Section 201 et seq.

6. Penalties - Any person violating any provision of this ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned not less than thirty days more than twelve months, or both. This ordinance shall not apply to any offense which is a felony under the Kentucky Revised Statutes.

7. Severability - If any section, subsection, paragraph, sentence, clause or phrase of this ordinance, where the application thereof to any person or circumstance should be declared invalid for any reason whatsoever, such decision shall not attest the remaining portions or other applications of this ordinance which shall remain in full force and effect; and to this end the provisions of this ordinance and the applications thereof are hereby declared to be severable.

That this Ordinance shall become effective upon the date of its passage.

July 1 - 78
Adopted July 1, 1978