

File

ORDINANCE NO. 918

AN ORDINANCE DEFINING CERTAIN TERMS AND OFFENSES RELATING TO OBSCENE MATERIAL AND PROHIBITING THE SALE, GIFT OR EXHIBITION THEREOF TO MINORS; PRESCRIBING DETAILS INCIDENT THERETO; PROVIDING PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT OR INCONSISTENT HEREWITH AND, PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL OF THE CITY OF ROSWELL, NEW MEXICO:

SECTION 1. Obscene Materials, sale, gift or exhibition to minors prohibited. It shall be unlawful for any person knowingly to offer, to sell, lend, distribute, exhibit, give away or show to any person under the age of eighteen (18) years:

A. Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to persons under the age of eighteen years;

B. Any book, pamphlet, magazine, printed matter howsoever reproduced, or sound recording which contains any matter enumerated in clause A. above, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which is harmful to minors; and

Further it shall be unlawful for any person knowingly to offer to exhibit to a minor under the age of eighteen years by means of admission ticket or pass, or knowingly to admit a person under the age of eighteen years to premises whereon there is exhibited any motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, except that the foregoing shall not apply to any person under the age of eighteen years accompanied by his parent or lawful adult guardian.

SECTION 2. Definitions. As used in this ordinance:

A. "Person" includes but is not limited to any natural person, whether over or under 21 years of age, firm, partnership, association, corporation, company or organization of any kind.

B. A thing is "obscene" if: By contemporary community standards and considered as a whole, its predominant appeal is to prurient, shameful or morbid interest in nudity, sex, bodily excretions, sadism or masochism, and extending substantially beyond customary limits of candor in describing or representing such matters, and it is utterly without redeeming social value.

C. "Nudity" is the showing of human male or femal genitalia, pub-
ic area or buttocks with less than fully opaque covering, or the showing of
the female breast with less than fully opaque covering of any portion thereof
below top of the nipple, or depiction of covered male genitals in a discerni-
bly turgid state.

D. "Public place" includes but is not limited to public dance halls,
pool rooms, bars, saloons, bowling alleys, coffee houses, commercial es-
tablishments patronized by the public, City, County, State or Federal build-
ings, streets, sidewalks, parks or alleys.

E. "Knowingly" means with knowledge that a person is under 18
years of age, or who, while in possession of such facts that he should rea-
sonably know that such person is a minor under 18 years of age, knowingly
sending or causing to be sent, exhibiting, distributing or offering to distri-
bute any obscene matter to a minor under 18 years of age.

SECTION 3. Applicability. For the purposes of this ordinance,
when the subject matter hereinabove proscribed shall be distributed or ex-
hibited to minors under eighteen years of age, the subject matter shall be
judged with reference to an average person in the community of the actual
age of the minor to whom such material is distributed, or exhibited.

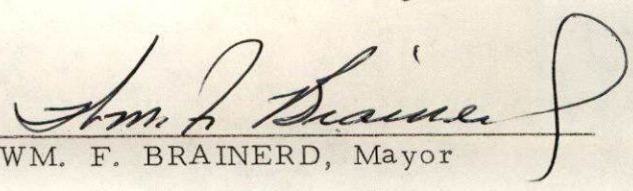
SECTION 4. Penalty. Any person violating the provisions of this
ordinance, upon conviction, shall be punished by a fine of not more than
Three Hundred (\$300) Dollars or by imprisonment for not more than ninety
(90) days, or by both such fine and imprisonment at the discretion of the
Court. Each day of violation shall constitute a separate offense.

SECTION 5. Repealer. All ordinances or parts of ordinances in
conflict or inconsistent herewith are repealed to the extent only of such in-
consistency. This repealer shall not be construed to revive any ordinance
or parts of any ordinance heretofore repealed.

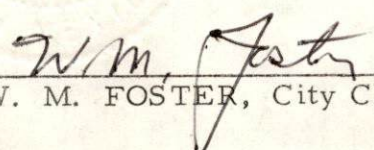
SECTION 6. Severability. That if any section, paragraph, clause
or provisions of this ordinance shall for any reason be held to be invalid or
unenforceable, the invalidity or unenforceability of such section, paragraph,
clause or provision shall not affect any other part of this ordinance.

PASSED, ADOPTED, SIGNED AND APPROVED on June 8,
1971.

CITY SEAL


WM. F. BRAINERD, Mayor

ATTEST:


W. M. FOSTER, City Clerk

Apr '71