

ORDINANCE NO. 2425

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING SECTIONS 13.-10.005 ET SEQ, TO REGULATE SEXUALLY ORIENTED COMMERCIAL ACTIVITIES; PROVIDING DEFINITIONS; PROHIBITING SEXUALLY ORIENTED COMMERCIAL ACTIVITIES NEARER THAN ONE THOUSAND (1,000) FEET FROM THE NEAREST PROPERTY LINE OF ANY LINE IN ANY RESIDENTIAL ZONE, OR ANY PUBLIC, PRIVATE, OR PAROCHIAL SCHOOL, LIBRARY, PARK, PLAYGROUND OR OTHER RECREATIONAL FACILITIES, WHETHER COMMERCIAL OR NONPROFIT, IN ANY OTHER ZONE, OR NEARER THAN ONE THOUSAND (1,000) FEET FROM THE NEAREST PROPERTY LINE OF ANY CHURCH, CONVENT, MONASTERY, SYNAGOGUE, OR OTHER SIMILAR PLACE OF RELIGIOUS WORSHIP; REGULATING ADVERTISING OR DISPLAY OF A SEXUALLY ORIENTED COMMERCIAL ACTIVITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Mesquite, Texas has determined that sexually oriented commercial activities may be contrary to the public interest or injurious to nearby properties, may enlarge or encourage the development of blighted neighborhood areas in the City, or may generally be detrimental to neighborhood conservation, the City Council has determined to amend the Mesquite City Code as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Mesquite City Code, be and the same is hereby, amended by adding Sections 13-10.005 et seq, to read as follows:

**Sec. 13-10.005. Sexually oriented commercial activities-
Definitions**

The following definitions shall be applied to determine whether or not sexually oriented commercial activities exist or are proposed and are, therefore, subject to the regulations of Section 13-10.006, to wit:

(a) Sexually oriented commercial activities shall mean commercial enterprises whose major business is the offering of a service or product which is intended to provide sexual stimulation or sexual gratification to the customer, and which is distinguished

by or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas including, but not limited to, massage parlors, nude studios, modeling studios, love parlors, adult bookstores, adult video stores, adult motion picture theaters, and adult mini-motion picture theaters, and such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

(b) Adult bookstore shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, and "peep shows" consisting of video recordings or film strips which are distinguished or characterized by their emphasis on pictorial or photographic representations of "specified sexual activities" or "specified anatomical areas" (as defined herein) or an establishment with a segment or section devoted to the sale, rental or display of such material. A "significant or substantial portion" shall mean more than one-third of the stock in trade or sales of the described material in excess of five thousand dollars (\$5,000.00) retail value per year.

(c) Adult motion picture theater shall mean an enclosed building or outdoor screen presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' (as defined herein) for observation by patrons of such establishments, and which offers such materials for at least any one hundred twenty (120) days in any 12-month period.

(d) Nude live entertainment club shall mean any bar, club, theater, lounge or establishment which offers live nude entertainment by dancers, models, actors, actresses, players, waitresses or waiters. Nude live entertainment shall mean live human dancers, models, actors, actresses, players, waitresses or waiters whose pubic area, buttocks, or genitals are exposed to the view of patrons at anytime.

(e) Specified sexual activities shall mean:

- (1) human genitals in a state or simulated sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy;
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast;
- (4) "sexual intercourse", "sexual contact", or "deviate sexual intercourse" as defined in Section 21.01, Texas Penal Code.

(f) Specified anatomical areas shall mean less than completely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola.

**Sec. 13-10.006. Sexually oriented commercial activities-
Regulations.**

(a) No building permit or certificate of occupancy may be granted for, and a person commits an offense if he operates or causes to be operated, a sexually oriented commercial activity nearer than one thousand (1,000) feet from the nearest property line of any land in any residential zone, or any public, private, or parochial school, library, park, playground or other recreational facility, whether commercial or nonprofit, in any other zone, or any church, convent, monastery, synagogue, or other similar place of religious worship, or the property line of a lot devoted to residential use.

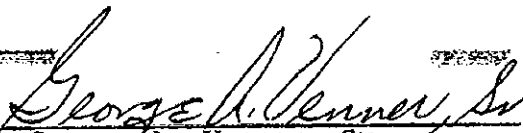
(b) The provisions of this section are not intended to impose limitation or restriction on the content of any communicative materials, including sexually oriented materials, but are intended to restrict the location of sexually oriented commercial activities and to limit the display of such materials where they may be visible to persons who have no desire to see them. No individual, proprietorship, partnership, corporation, association, or other legal entity, whether as owner, manager, operator, employee, or person in charge of an establishment conducting sexually oriented commercial activities shall cause, suffer, or permit any advertisements, displays, or other promotional materials to be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or from other public streets, alleys or areas, nor permit any building opening, entry or window for any structure containing a sexually oriented commercial activity to be located, covered, or screened in such a manner as to permit a view into the interior of such structure from any public, semi-public or private area not a part of the property of said structure.

SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense.

SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate to protect the health and welfare the inhabitants of the City of Mesquite creates an urgency and an emergency and necessitates that this ordinance become effective immediately from and after its date of passage and the publication of its caption as the law in such cases provides.

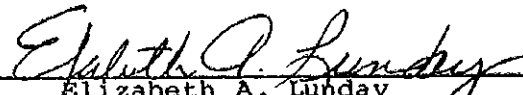
DULY PASSED AND APPROVED by the City of Mesquite, Texas, on the 20th day of April, A.D., 1987.


George A. Venner, Sr.
Mayor

ATTEST:

APPROVED AS TO FORM:


Lynn Prugel
City Secretary


Elizabeth A. Lunday
Assistant City Attorney