

(e) 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.

(f) 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.

(g) 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.

(h) Adult Arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(i) Adult Cabaret shall mean a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) persons who appear in a state of nudity; or
- (2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(j) Adult Theater shall mean a theater, concert hall, auditorium, or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(k) Nude Model Studio shall mean any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(l) Nudity shall mean the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

B. 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 non profit, 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.

(c) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(d) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(e) For the purposes of subsection (a), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.


(f) For the purposes of subsection (c) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

SECTION 2. Should any word, phrase, sentence, paragraph, or section 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. 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 subject to a fine not to exceed two thousand (\$2,000.00) dollars for each offense.

SECTION 4. The fact that the Code of the City of Mesquite is inadequate for the protection of the inhabitants of the City creates an urgency and an emergency for the preservation of the public health, safety, and welfare of its citizens and requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance, as the law in such cases provides.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of June, 1989.


George A. Venner, Sr.
Mayor

ATTEST:


Lynn Frugel
City Secretary

APPROVED:


B.J. Smith
City Attorney