

ORDINANCE NO: 11142006-2

AN ORDINANCE PROHIBITING ANY SEXUALLY ORIENTED BUSINESSES WITHIN THE CORPORATE CITY LIMITS OF THE CITY OF MUNDAY, TEXAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS PROHIBITING ANY SEXUALLY ORIENTED BUSINESSES WITHIN THE CORPORATE CITY LIMITS OF THE CITY OF MUNDAY, TEXAS

DEFINITIONS:

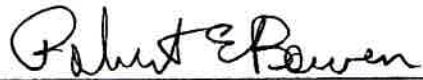
1. **ADULT ENTERTAINMENT ESTABLISHMENT:** A commercial or private establishment as listed below but no limited to the following:
 - (A) An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult theater, adult motion picture theater, escort agency, nude model business or sexual encounter center.
 - (B) Any establishment whose principal business is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity.
2. **ADULT ARCADE:** 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 depiction or description of "specified sexual activities" or "specified anatomical areas."
3. **ADULT BOOKSTORE OR ADULT VIDEO STORE:** A commercial or private establishment which, as its principal business purpose, offers for sale or rental for any form of consideration any one or more of the following:
 - (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or dvd's or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."
 - (B) Instruments, devices or paraphernalia, which are designed for, use in connection with "specified sexual activities." This does not include items used for birth control or for prevention of sexually transmitted diseases.
4. **ADULT CABARET:** A nightclub, bar, restaurant or similar commercial or private establishment which regularly features the following:
 - (A) Persons who appears in a state of nudity.
 - (B) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

- (C) Films, motion pictures, video cassettes or dvd's, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
5. **ADULT MOTEL:** a hotel, motel or similar commercial or private establishment which does the following:
- (A) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or dvd's, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.
 - (B) Offers a sleeping room for rent for a period of time that is less than ten hours.
 - (C) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.
 - (D) Evidence that a sleeping room in a hotel, motel or similar commercial or private establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the business is an adult motel.
6. **ADULT MOTION PICTURE THEATER:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or dvd's, slide or similar photograph reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
7. **ADULT THEATER:** A theater, concert hall, auditorium or similar commercial or private 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."
8. **CUSTOMER:** Any person who meets the following conditions:
- (A) Is allowed to enter an adult entertainment establishment in return for the payment of an admission fee or any other form of consideration or gratuity.
 - (B) Enters an adult entertainment establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein.
 - (C) Is a member of and on the premises of an adult entertainment establishment operating as a private club.
9. **EMPLOYEE:** Any person who renders any service whatsoever to the customers of an adult entertainment establishment or who works in or about an adult entertainment establishment and who receives compensation for the service or work from the operator or owner of the adult entertainment establishment or from the customers therein.
10. **ESCORT:** A person who, for consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease or any sexual act for another person.

11. **ESCORT AGENCY:** A person or business association who furnishes, offers to furnish or advertises to furnish escorts as its principal business purpose for a fee, tip or other consideration.
12. **NUDE MODEL BUSINESS:** Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided or allowed to be observed, sketched, drawn, painted, sculptures, photographed or similarly depicted by other persons who pay money or any form of consideration.
13. **NUDITY or A STATE OF NUDITY:** This term means the following:
 - (A) The appearance of a human bare buttock, anus, male genitals, female genitals or female breast.
 - (B) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.
14. **OPERATED or CAUSES TO BE OPERATED:** To cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated an adult entertainment establishment whether or not that person is an owner, part owner or manager of the establishment.
15. **OPERATOR:** An individual who is in control of the operation of an adult entertainment establishment. This control can be either on an hourly basis, daily basis, weekly basis, or shift basis or any combination thereof. An *operator* includes, but is not limited to, manager, assistant manager, housemother, floor manager or shift manager.
16. **PERSON:** An individual, proprietorship, partnership, corporation, association, or other legal entity.
17. **SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that as its principal business purpose, offers for any form of consideration the following:
 - (A) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.
18. **SPECIFIED ANATOMICAL AREAS:** Human genitals in a state of sexual arousal.
19. **SPECIFIED SEXUAL ACTIVITIES:** This term includes any of the following:
 - (A) The fondling or other erotic touching of human genitals, pubic region, pubic hair, perineum, buttocks, anus or breast.
 - (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy or bestiality.
 - (C) Masturbation, actual or simulated.
 - (D) Excretory functions.
20. **PENALTY:** Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined an amount not to exceed \$2,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

The matters addressed in this ordinance are necessary for the immediate preservation of the public safety of the citizens of the City of Munday, Texas. Accordingly, the City Council of the City of Munday, Texas declared this matter to be an emergency thereby waiving the requirement that this ordinance be read and voted upon on three separate meetings and this ordinance shall, therefore, take effect upon the passage of this ordinance by the City Council of the City of Munday, Texas and the publication of its provisions as required by applicable law.

PASSED AND APPROVED THIS 14TH DAY OF NOVEMBER, 2006



Robert Bowen, Mayor

ATTEST:



Dwayne Bearden, City Administrator