

ORDINANCE NO. 133

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANGUS, TEXAS, RELATING TO "SEXUALLY ORIENTED BUSINESSES".

WHEREAS, the City Council of the City of Angus, Texas ("City Council") has determined that this addition to the Angus Code of Ordinances should be adopted; and

WHEREAS, the Council has now determined that it ought to adopt this ordinance relative to sexually oriented businesses; and

WHEREAS, the City has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the public health, safety and welfare of the citizens to amend the City Code of Ordinances, and the portion thereof regulating Sexually Oriented Businesses, by enacting the following new Article 5 relative to SEXUALLY ORIENTED BUSINESSES.

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

Section 1

The premises set forth above, together with the findings set forth below, and the evidence referred to in such findings, are hereby found to be true and correct legislative findings, and are fully incorporated into the body of this Ordinance by reference as fully as if all of such evidence were set out verbatim.

Section 2

The following Article shall be added to the Angus Code of Ordinances to read as follows:

ARTICLE _____ SEXUALLY ORIENTED BUSINESSES

Section 1.01 Adoption of Preamble

The findings contained in the preamble of this ordinance are determined to be true and correct and are adopted as a part of this ordinance.

Section 1.02 Purpose and Intent

It is the purpose of this Article 5 to regulate Sexually Oriented Businesses to promote the health, safety, morals and general welfare of the citizens of the City. The provisions of this Article 5 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article 5 to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

Section 1.03 Findings

Based on evidence concerning the adverse secondary effects of Sexually Oriented Businesses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S. Ct. 1382 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728 (2002); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *2300, Inc. v. City of Arlington*, 888 S.W.2d 123 (Tex. App. — Fort Worth, 1994); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998), cert denied, 529 U.S. 1053 (2000); *Key, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *DLS, Inc. v. Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Jake 's, Ltd., Inc. v. Coates*, 384 F.3d 884 (8th Cir. 2002); and on studies, reports and/or testimony in other communities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington; Los Angeles, California Police Department (dated August 12, 2003); Arlington, Texas, License and Amortization Appeal Board hearings, 2001 and

2002; Arlington Community Health Profile (dated July 2003); a summary of land use studies compiled by the National Law Center for Children and Families; and also on findings from the *Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses* (June 6, 1989, State of Minnesota), the Council finds:

1. Sexually Oriented Businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, absent municipal regulation aimed at reducing adverse secondary effects there is no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Certain employees of Sexually Oriented Businesses, defined in this Ordinance as Sexually Oriented Theater, Nude Model Business, Escort Agency, and Sexually Oriented Cabaret, engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
3. Sexual acts occur at Sexually Oriented Businesses, especially those which provide private or semi-private booths or cubicles, or rooms for viewing films, videos, or live sex shows.
4. Offering and providing private or semi-private areas in Sexually Oriented Businesses encourages such sexual activities, which creates unhealthy conditions.
5. Persons frequent certain Sexually Oriented Theaters, Sexually Oriented Arcades, and other Sexually Oriented Businesses for the purpose of engaging in sex within the premises of such Sexually Oriented Businesses.
6. At least 50 communicable diseases may be spread by activities occurring in Sexually Oriented Businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.
8. As of December 31, 2001, there have been 57,199 reported cases of AIDS in the State of Texas.
9. Since the early 1980s and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Tarrant County, Texas and across the State of Texas.

10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990. According to Texas Department of Health records there were 1,175 cases of early syphilis reported in the State of Texas during 2000 and an additional 972 cases reported in 2001.
11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. Again, according to Texas Department of Health records there were 32,895 cases of gonorrhea reported in the State of Texas during 2000 and an additional 30,116 cases reported in 2001. During the same time period there were also 138,692 cases of chlamydia reported in the State of Texas. [Arlington Community Health Profile (dated July 2003)]
12. In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
14. Sanitary conditions in some Sexually Oriented Businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
15. Numerous studies and reports have determined that semen is found in the areas of Sexually Oriented Businesses where persons view "sexually oriented" films.
16. Sexually Oriented Businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.
17. It is reasonably believed by the City Council that the general welfare, health, and safety of the citizens of the City will be promoted by the enactment of this Ordinance.
18. The findings noted above raise substantial governmental concerns.

SUBARTICLE 4.1302 DEFINITIONS

Section 2.01 Definitions

"Sexually Oriented Business" means:

1. A Sexually Oriented Arcade, Sexually Oriented Bookstore or Sexually Oriented Video Store, Sexually Oriented Cabaret, Sexually Oriented Motel, Sexually Oriented Theater, Sexually Oriented Motion Picture Theater, Escort Agency, Nude Model Business or Sexual Encounter Center; and/or

2. 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.

3. The term "Sexually Oriented Business" shall not be construed to include:

a. Any business operated by or employing a licensed psychologist, licensed physical therapist, licensed masseuse, licensed vocational nurse, registered nurse, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing the normal and customary functions authorized under the license held;

b. Any business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts;

c. Any retail establishment whose principal business is the offering of wearing apparel for sale to customers and that does not exhibit merchandise on live models; or

d. An activity conducted or sponsored:

(1) By a proprietary school licensed by the State of Texas or a college, junior college or university supported entirely or partly by taxation; or

(2) By a private college or university which maintains or operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation;

And any activity conducted or sponsored by an entity identified in subparagraph (1) or (2) must be situated in a structure:

(a) which has no sign or other advertising visible from the exterior of the structure indicating a nude person is available for viewing; and

(b) where in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

(c) where no more than one (1) nude model is on the premises at any one time.

“Sexually Oriented Arcade” means any commercial establishment 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 (5) 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.”

“Sexually Oriented Bookstore or Sexually Oriented Video Store” means a commercial establishment to which the public is permitted or invited which, as its principal business purpose, offers for sale or rental for any form of consideration any one (1) or more of the following:

1. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or
2. 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.

“Sexually Oriented Cabaret” means a nightclub, bar, restaurant or similar commercial establishment which regularly has:

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, closed-circuit television transmissions, cable television transmissions, subscriber programming, any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission or other method, which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

“Sexually Oriented Motel” means a hotel, motel or similar commercial establishment which:

1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, cable television transmissions, subscriber programming, any disk, diskette, or other physical medium that allows an image to be

displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission or other method, 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"; and has a sign visible from the public right-of-way which advertises the availability of this type of material; or

2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the business is a Sexually Oriented Motel.

"Sexually Oriented Motion Picture Theater" means a commercial establishment to which the public is permitted or invited where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission or other method, are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

"Sexually Oriented Theater" means a theater, concert hall, auditorium or similar commercial establishment to which the public is permitted or invited 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."

Section 3.01 Prohibitions

All Sexually Oriented Businesses, Sexually Oriented Arcades, Sexually Oriented Bookstores or Sexually Oriented Video Stores, Sexually Oriented Cabarets, Sexually Oriented Motels, Sexually Oriented Motion Picture Theaters and Sexually Oriented Theaters are prohibited within the City Limits and ETJ of the City of Angus, Texas.

ARTICLE II. PENALTY FOR VIOLATIONS

Any person, firm, or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding five hundred dollars (\$500.00), and each and every day's violation shall constitute a separate offense.

ARTICLE III. SEVERABILITY OF ORDINANCE

If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the ordinance, and the city council of the City of Angus hereby declares that it would have passed such remaining portion of the ordinance despite such invalidity.

ARTICLE IV. CONFLICTING PROVISIONS

Any and all ordinances of the City of Angus heretofore adopted which are in conflict with this ordinance are hereby expressly repealed insofar as the same are in conflict therewith.

ARTICLE V. EFFECTIVE DATE

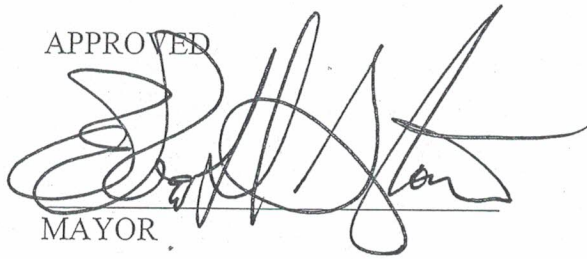
This ordinance shall take effect immediately, from and after its passage and publication of the caption, as the law in such cases provides.

PASSED and APPROVED by the City Council of the City of Angus, Texas on this 13 day of

January, 2009.

APPROVED

MAYOR

APPROVED

MAYOR

ATTEST:


CITY SECRETARY



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Legal

The following Ordinance was passed and approved on the 18th day of January, 2009, by the City of Angus and is available in the City Secretary's office at the Angus Government Center. The ordinance caption reads as follows:

Ordinance No. 133
An Ordinance of the City Council of the City of Angus, Texas, Relating to "Sexually Oriented Businesses".

City Secretary
Deanna Owen

REQUEST FOR MANAGEMENT SERVICES

The City of Corsicana has received a contract award from the Texas Department of Agriculture under the Texas Capital Fund. This contract award will benefit MIV, Inc. (Deputy). The city is seeking to award this qualified management consultant to carry out several aspects of overall grant program management for the City. Please submit your proposal for services, statement of qualifications, and proposed cost schedule for each scope of work to Connie Standridge, City Manager, City of Corsicana, 200 N. 12th Street, Corsicana, Texas 75110.

Proposals must be obtained at the office of the City Engineer, City of Corsicana Government Center, 200 N. 12th Street, Corsicana, Texas 75110, (903-854-4555).

Proposals must be received by the City no later than March 2, 2009, at 2:00 p.m. to be considered. The City reserves the right to negotiate with any and all management consultants or firms that submit proposals, per the Texas Professional Services Procurement Act and Office of Management and Budget Circular No. A-102.

The City of Corsicana is an Affirmative Action/Equal Opportunity Employer.

REQUEST FOR ENGINEERING SERVICES

The City of Corsicana has received a grant award from the Texas Department of Agriculture under the Texas Capital Fund Program for infrastructure improvement to benefit MIV, Inc. (Deputy) in the City of Corsicana. The City is seeking to contract with a qualified engineer to provide the following services, but not limited to:

- Preliminary and final design plans and specifications
- Preparation of bid packet
- Other services as needed

Proposals must be obtained at the office of the City Engineer, City of Corsicana Government Center, 200 N. 12th Street, Corsicana, Texas 75110, (903-854-4555).

Please submit your statement of qualifications for these proposed services to Connie Standridge, City Manager, City of Corsicana, 200 N. 12th Street, Corsicana, Texas 75110.

Proposals must be received by the City no later than March 2, 2009, at 2:00 p.m. to be considered. The City reserves the right to negotiate with any and all engineers or firms that submit proposals, per the Texas Professional Services Procurement Act and Office of Management and Budget Circular No. A-102.

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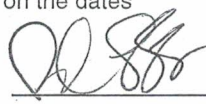
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CITY OF ANGUS
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 CORSICANA, TX 75110

Date	Quantity	Unit	Description	Rate	Total	Quantity	Unit	Rate	Total	
02/19/09	6.00	IN	N102 LEGAL	9.94	59.64	6.00	INCH	9.94	59.64	
02/20/09	6.00	IN	N102 LEGAL	9.94	59.64	6.00	INCH	9.94	59.64	
TOTAL					119.28	TOTAL				119.28

COUNTY OF NAVARRO

BEFORE ME, the undersigned authority, on this day personally appeared RAYMOND LINEX, says he is the PUBLISHER of the Corsicana, Texas branch of Newspaper Holdings, Inc., publisher of the CORSICANA DAILY SUN, a daily newspaper having general circulation in said county and state and that the notice, a copy of which is hereto attached, was published in said newspaper on the dates listed above.



SUBSCRIBED AND SWORN TO BEFORE ME, this the
 MAR.2009

5TH day



Notary Public in and for the State of Texas

