

ORDINANCE NO. 315

AN ORDINANCE AMENDING CHAPTER 4, SECTION 1, TO PROHIBIT SEXUALLY ORIENTED ACTIVITIES AT A NIGHT CLUB OR DANCE HALL AND ALLOWING SWIMWEAR CONTESTS WITH CERTAIN RESTRICTIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SEVERABILITY AND SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the governing body of the City of Seven Points, Texas, is charged with the health, safety, and welfare of the City's residents; and

WHEREAS, the City Council seeks to maintain and preserve the quality of life enjoyed by its residents; and

WHEREAS, the City Council made findings of fact which supported the adoption of Ordinance No. 231, which findings are readopted; and

WHEREAS, based on such findings, the City Council made numerous determinations that justified and required the regulation of sexually oriented businesses as set out in Ordinance No. 231; and

WHEREAS, the City Council hereby ratifies and re-adopts the findings and determinations it made in support of the adoption of Ordinance No. 231; and

WHEREAS, the regulations adopted in Ordinance No. 231 do not explicitly address the exhibition by other businesses of activities more suitable for sexually-oriented businesses.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS:

Article I. A new Article 4, Section 1, Subsections D and H are hereby added to read as follows:

D. SEXUALLY-ORIENTED ACTIVITIES

A dance hall required to have a permit under this section or a night club, as defined in Ordinance No. 272, shall not exhibit, present, or otherwise display the following activities:

- (1) Persons appearing in a "state of nudity;"

- (2) Live performances by employees or customers, including style shows, lingerie shows, or swimwear shows, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or "specified anatomical area shall mean the human buttock (The buttocks are rounded portions of the anatomy located on the posterior of the pelvic region of the great apes, including humans. The buttocks are formed by the masses of the two gluteus maximus muscles covered by cushioning fat. The superior aspect of the buttock is described by the iliac crest and the lower aspect is described by the horizontal gluteal creases. The masses of the gluteus maximus muscle are separated by an intermediate gluteal cleft or "crack" in which the anus is situated. They allow primates to sit upright comfortably without needing to rest their weight on their feet (starting at the abdomen extending to the thigh)
 - a. Breast shall be defined starting at the thorax and extending to the abdomen.
 - b. Specified sexual activities means and includes any of the following:
 - (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy

Excretory functions as part of, or in connection with, any of the activities set forth in (a) through (c) above.

- (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."
- (4) Dancing shall be confined to the designated dance area (an area specified by the owner for dancing, dancing floor shall be the same elevation as the finished floor elevation).
 - a. dancing is prohibited within 2 feet of any elevated platforms, chairs, barstools, bar counters, poles, and/or any other structure or object (temporary or permanent) more than 2 inches above the finished floor elevation.
 - b. no objects permanent or temporary shall be located on dance area at any time.

G. SWIMWEAR CONTESTS

Notwithstanding the provisions of paragraph (2) of Subsection G, a Dance Hall may present swimwear contests, provided that:

- (1) No "specified anatomical areas, may be displayed by contestants;

- (2) The contestants may not be sprayed or doused with water or other liquids;
- (3) The contestants may not accept tips or gratuities;
- (4) The contestants may not dance, alone, with a spectator, or with another contestant, while competing;
- (5) The contestants may not wear string bikinis or thongs;
- (6) The contestants must wear covering apparel over their swimwear while at the Dance Hall before and after competing; and
- (6) The Dance Hall may not advertise the swimwear contest on a sign on or outside the building where the Dance Hall is located.

Article II. SEVERABILITY CLAUSE / SAVING CLAUSE. It is hereby declared to be the intention of the City Council of the City of Seven Points, Texas, that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable. If any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid, it shall not effect any of the remaining phrases, clauses, sentences, paragraphs or sections of this chapter since the same would have been enacted by the city commission without the incorporation of this chapter of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Article III. PENALTY FOR VIOLATION

(1) Any business owner or person intentionally knowingly or with reckless intent, violating any portion of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand dollars (\$2000.00) for each violation and/or shall be subject to permits being suspended or revoked.

Article IV. EFFECTIVE DATE. This amended ordinance shall become effective on the date of signing.

PASSED AND APPROVED THIS THE 29TH, DAY OF SEPTEMBER, 2005.

APPROVED:

Gerald Taylor, Mayor

ATTEST:

Debbie Mosley, City Secretary

APPROVED AS TO FORM:

Ronald D. Stutes, City Attorney