

ORDINANCE NO. 1847

AN ORDINANCE AMENDING CHAPTER 84, "UNIFIED DEVELOPMENT CODE", SECTION 84-7 "DEFINITIONS AND WORD USAGE", SUBSECTION (B) "DEFINITIONS", OF THE CODE OF ORDINANCES OF THE CITY OF EULESS, TEXAS; PROVIDING FOR A SEVERABILITY CLAUSE, PENALTY FOR VIOLATION AND AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on April 7, 2009, in conjunction with Case No. 09-01-UDC, and has rendered a recommendation to the City Council with respect to this case; and

WHEREAS, the City Council has conducted a public hearing on April 28, 2009, considered the recommendation of the Planning and Zoning Commission, and has determined that the proposed change is in the best interest of the general welfare of the City of Euless.

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

SECTION 1

THAT Chapter 84, "Unified Development Code", Section 84-7 "Definitions and Word Usage", Subsection (b) "Definitions", of the Code of Ordinances be amended by the elimination of the words and current definitions of "Nude", "Semi-nude", and "Sexually Oriented Business" and the addition of the following new words and definitions, to hereafter be and read as follows:

NUDITY or a STATE OF NUDITY means a state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed.

SEMI-NUDE or SEMI-NUDITY or STATE OF SEMI-NUDITY means the exposure of the post puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the post puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals, pubic region and the perineum anal region of the human body. The term "semi-nude" shall not apply to an individual exposing a post puberty female nipple or areola in the process of breastfeeding a child under that person's care.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, nude model studio, or other commercial enterprise for which the regular 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 the customer constitutes twenty-five percent (25%) or more of the items in inventory and/or floor space of the Sexually Oriented Business. The term shall also mean any commercial enterprise that self-identifies as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency or nude model studio, regardless of whether the percentage of items in inventory and/or floor space constitute twenty-five percent (25%) or more of the total items in inventory and/or floor space.

SECTION 2

SEVERABILITY CLAUSE. It is hereby declared to be the intention of the City Council of the City of Euless that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase.

SECTION 3

PENALTY FOR VIOLATION. Any person, firm, or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter "General Provisions," Section 1-12 "General Penalty," Euless Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

SECTION 4

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND PASSED ON FIRST AND FINAL READING at a regular meeting of the Euless City Council on the 28th day of April, 2009, by a vote of _____ ayes, _____ nays, and _____ abstentions.

APPROVED:

APPROVED AS TO FORM:

Mary Lib Saleh, Mayor

Bob McFarland, City Attorney

ATTEST:

Susan Crim, TRMC, City Secretary