

ORDINANCE NO. 2

AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS, PROHIBITING NUDITY IN COMMERCIAL ESTABLISHMENTS LOCATED WITHIN THE CITY AT WHICH ALCOHOLIC BEVERAGES ARE SERVED, OFFERED FOR SALE FOR CONSUMPTION ON SUCH PREMISES, OR AT WHICH THE CONSUMPTION OF ALCOHOL IS PERMITTED; SETTING OUT PROHIBITED ACTIVITIES; DEFINING PROHIBITED NUDITY; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF ANY ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the Board of Aldermen of the City of East Bernard, Texas, finds that there is an increasing commercial exploitation of human sexuality by owners and operators of commercial establishments where alcoholic beverages are served or offered for sale for consumption on the premises, or where alcoholic beverages are permitted to be consumed; and,

WHEREAS, such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or seminude bodies to other persons as an inducement to such other persons to purchase alcoholic beverages or to consume alcoholic beverages while on the premises; and,

WHEREAS, such exploitation is often accompanied by serious and dangerous criminal activity, such as the possession or use of controlled substances, the proliferation of drug-related activity, prostitution, disorderly conduct, assaults, and the like; and,

WHEREAS, the direct result of such exploitation in the context of the location where it is permitted threatens the preservation of property values of adjoining and adjacent properties and neighborhoods; and,

WHEREAS, the direct result of such exploitation is the moral degradation and disturbances of the peace and good order of the community; and,

WHEREAS, such commercial exploitation of such nude and seminude acts are adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City of East Bernard; now therefore,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF EAST BERNARD, TEXAS:

Section 1. Purpose. The purpose of this Ordinance is to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments within the corporate limits of the City of East Bernard, Texas, where alcoholic beverages are served, offered for sale for consumption on the premises, or permitted to be consumed on the premises, and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community, to prohibit lewd and unlawful activity, such as prostitution and the proliferation of controlled substances, all of which may occur when such commercial exploitation is permitted in such places, and to promote the preservation of property values of neighborhoods and adjacent properties.

Section 2. It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the boundaries of the City of East Bernard, Texas, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed:

(a) To suffer or permit any female person, while on the premises of said commercial establishment, to expose that area of the human female breast at or below the top of the areola thereof;

(b) To suffer or permit any female person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate such portions of the human female breasts as described in Sec. 2(a) hereof;

(c) To suffer or permit any person, while on the premises of said commercial establishment, to expose his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage;
or

(d) To suffer or permit any person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft, or cleavage.

Section 3. It shall be unlawful for any female person, while on the premises of a commercial establishment located within the boundaries of the City of East Bernard, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which

alcoholic beverages are permitted to be consumed, to expose that area of the human female breast at or below the top of the areola thereof, or to use any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

Section 4. It shall be unlawful for any person, while on the premises of a commercial establishment located within the boundaries of the City of East Bernard, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose his or her genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.

Section 5. Penalties. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$2,000. Each day of violation of any provision hereof shall constitute a separate offense.


Section 6. Injunctive Relief. The City shall be authorized to seek compliance with this Ordinance by seeking injunctive relief in a court of proper jurisdiction to compel the operator, owner, or other violator of this Ordinance as the same shall be established, to comply with the terms and provisions thereof. The ability of the City to seek injunctive relief hereunder shall not be subject to, nor shall it be a prerequisite thereof, that the City has sought compliance with this Ordinance by application of penalties and sanctions as otherwise set out in this Ordinance.

Section 7. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Board of Aldermen of the City of East Bernard, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 8. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

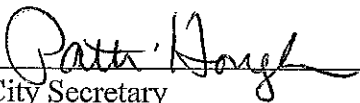
Section 9. This Ordinance shall be in full force and effect immediately upon and after its final passage and publication as required by law.

PASSED, APPROVED, AND ADOPTED this 8 day of March, 2004.



Mayor

ATTEST:

Acting 
City Secretary