

ORDINANCE NO. 1931

AN ORDINANCE OF THE CITY OF GRAND JUNCTION, COLORADO, TEMPORARILY PROHIBITING THE ESTABLISHMENT IN CERTAIN AREAS OF THE CITY OF GRAND JUNCTION OF "ADULT ENTERTAINMENT" BUSINESSES, AS DEFINED HEREIN, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

Section 1: LEGISLATIVE DECLARATION.

The City Council finds that the concentration of certain "adult entertainment" businesses in cities tends to result in the blighting and deterioration of the areas of such concentration. Accordingly, it is necessary that these businesses be regulated in such a manner as to prevent the erosion of the character of affected neighborhoods. Pending further study of these deleterious effects and the development and adoption of appropriate remedial zoning regulations, it is necessary to prohibit on an interim basis the establishment of such "adult entertainment" businesses within close proximity to existing "adult entertainment" businesses, residentially zoned areas, and public buildings, schools, churches, parks and playgrounds, so as to avoid substantially negating the ultimate effect of such remedial regulations.

Section 2: PURPOSE

The purpose is to establish for the zoning for and location of sexually-oriented businesses and activities which:

- (a) are not a nuisance, and
- (b) do not violate the provisions of the Colorado Criminal Code regarding sexual conduct, obscene matter or harmful matter.

Nothing in this Section authorizes, legalizes or permits the establishment, operation or maintenance of any business, building or activity which violates any municipal ordinance or provision of the Colorado Criminal Code or Civil Code regarding nuisances, sexual conduct, obscene matter or harmful matter.

Section 3: DEFINITIONS.

A. As used in this ordinance, the terms "Sexual Conduct" and "Specified Anatomical Areas" shall mean as follows:

1. "Sexual Conduct" includes the following:
 - (a) The fondling or other touching human genitals, pubic region, buttocks, or female breasts;
 - (b) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy;

(c) Masturbation; and,

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

2. "Specified Anatomical Areas" includes the following: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

B. For purposes of this ordinance, the "adult entertainment" businesses listed in Section 3 hereof are defined as follows:

1. Adult Bookstore

An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

2. Adult Mini Motion Picture Theater

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

3. Adult Motel

A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

4. Adult Motion Picture Arcade

Any place to which the public is permitted or invited wherein coin 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 an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

5. Adult Motion Picture Theater

An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

6. Cabaret

A nightclub, theater or other establishment which features live

performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."

7. Massage Parlor

Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with "Sexual Conduct," or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."

8. Model Studio

Any establishment or business which provides, as a substantial or significant part of its business, the services or modeling of adults distinguished or characterized by emphasis on depicting "Sexual Conduct" or "Specified Anatomical Areas" by means of photography, painting, sketching, drawing or sculpture by persons paying any form of consideration or gratuity.

9. Sexual Encounter Center

Any business, agency or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in "Sexual Conduct" or exposing "Specified Anatomical Areas."

C. As used in this ordinance, the terms "Public Building" and "School" are defined as follows:

1. Public Building

Any building owned, leased or held by the United States of America, the State of Colorado, the County of Mesa, the City of Grand Junction, any special district, school district or any other agency or political subdivision of the State of Colorado or the United States of America, which building is used for governmental purposes.

2. School

Any public or private educational facility including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges and universities. "School" includes the schoolgrounds but does not include facilities used primarily for another purpose and only incidentally as a school.

Section 4: PROHIBITION

For a period of six months, or until such time as a permanent "adult entertainment" zoning ordinance is adopted, whichever should first occur, no person shall cause or permit the establishment of an Adult Bookstore, Adult Mini Motion Picture Theater, Adult Motel, Adult Motion Picture Arcade, Adult Motion Picture Theater, Cabaret, Massage Parlor, Model Studio or Sexual Encounter Center, as each is defined in Section 3 hereof, and provided that such "adult entertainment" business shall not be established within 1,000 feet of the property line of another such business or within 1,000 feet of the property line of any church, school, park, playground or public building, or within 500 feet of any property zoned: R-1-A, R-1-B, R-1-C, R-1-D, R-2, R-2-A or R-3 as the same are defined in the City Zoning Ordinances.

The "establishment" of and "adult entertainment" business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in Section 3 hereof.

Section 5: NON-CONFORMING USES.

Uses made non-conforming by this Ordinance shall be governed by the City of Grand Junction Zoning Ordinance.

Section 6: PENALTY FOR VIOLATION

Violation of this Ordinance is punishable by a fine not exceeding three hundred dollars (\$300.00), or by imprisonment not exceeding ninety (90) days or by both such fine and imprisonment. Each day during any portion of which any violation of this Ordinance is committed, permitted or continued shall constitute a separate offense.

Section 7: EMERGENCY

The adoption of this Ordinance is necessary for the preservation of the public peace, health and safety and this Ordinance shall become effective upon its passage.

Section 8: SEVERABILITY

If any provision or clause of this Ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this Ordinance are declared to be severable.

Section 9: EXTENSION OF ORDINANCE

This Ordinance may be continued in effect after public hearing.

Section 10: EFFECTIVE DATE AND PUBLICATION

The City Clerk shall certify to the adoption of this Ordinance and cause it to be published once in The Daily Sentinel.

PASSED and ADOPTED this 17th day of December, 1980.

Jane S. Quimby

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

I HEREBY CERTIFY that the foregoing emergency ordinance, entitled AN ORDINANCE OF THE CITY OF GRAND JUNCTION, COLORADO, TEMPORARILY PROHIBITING THE ESTABLISHMENT IN CERTAIN AREAS OF THE CITY OF GRAND JUNCTION OF "ADULT ENTERTAINMENT" BUSINESSES, AS DEFINED HEREIN, AND DECLARING AN EMERGENCY was introduced, read, passed and adopted as an emergency ordinance, numbered 1931, and ordered published by the unanimous vote of the members of the City Council of the City of Grand Junction, at a regular meeting of said Council held on the 17th day of December, 1980.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 18th day of December, 1980.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk

Published: December 21, 1980

Effective: December 17, 1980