

ORDINANCE NO. 2496

THE REPEAL AND REENACTMENT OF AN ORDINANCE CONCERNING THE LOCATION IN CERTAIN AREAS OF THE CITY OF GRAND JUNCTION OF ADULT ENTERTAINMENT ESTABLISHMENTS AS DEFINED HEREIN. THIS ORDINANCE SHALL CONSTITUTE ON FINAL PASSAGE AND ADOPTION SECTION 5-13 OF THE GRAND JUNCTION ZONING AND DEVELOPMENT CODE AND SHALL BE CODIFIED THEREIN AND AT CHAPTER 32 OF THE CODE OF ORDINANCES OF THE CITY OF GRAND JUNCTION AS SECTION 32-2.

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 establishments in cities tends to result in the blighting and deterioration of the areas of such concentration. Accordingly, it is necessary that these establishments be regulated in a manner as to prevent the erosion of the character of affected neighborhoods. No adult entertainment establishment as defined herein shall be permitted within the City of Grand Junction except as provided in this ordinance.

Section 2: Purpose.

The purpose is to establish for the zoning and location of adult entertainment establishments which:

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

Nothing in this section authorizes, legalizes or permits the establishment, operation or maintenance of any business, building or activity which violates any other municipal ordinance or provision of the Colorado Criminal Code or Civil laws regarding nuisances, sexual conduct, obscene material or obscene conduct. Obscene material or obscene conduct means that material or conduct which taken as a whole appeals to the prurient interest of the average person, applying a contemporary local standard and depicts or describes sexual conduct which taken as a whole lacks serious literary, artistic, political or scientific value. The term contemporary local standard means that the material or conduct at issue must be measured in terms of the contemporary community standards of the City of Grand Junction.

Section 3: Definitions.

Adult Entertainment Establishment: Any establishment which conducts as a principal use of the premises or as a significant or substantial adjunct to another use of the premises, the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its

emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified anatomical areas as an attraction to the premises, including but not limited to:

(a) Adult bookstore: Any establishment which sells or rents adult material including but not limited to books, magazines, movies, films, slides, or other photographic or written material and/or devices;

(b) Adult hotel or motel: Any hotel or motel in which the presentation of adult material is the primary or a principal attraction;

(c) Adult motion picture theatre: Any fully enclosed theatre in which the presentation of adult material is the primary or a principal attraction;

(d) Adult cabaret, restaurant or place of business: A cabaret, restaurant or place of business which features topless and/or bottomless dancers, waitresses, waiters, or entertainers.

Adult Material: Any material including, but not limited to books, magazines, newspapers, movie films, slides, or other photographic or written materials, video tapes and/or devices which are distinguished by their emphasis on depicting, describing or relating to specified anatomical areas or specified sexual activities:

(a) Specified anatomical areas are any of the following which are less than completely and opaquely covered:

1. Human genitals and pubic region;

2. Buttocks; and

3. The human female breast or breasts to a point immediately below the top of the areola;

4. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

(b) Specified sexual activities or sexual conduct:

1. Human genitals in a state of sexual stimulation or arousal;

2. Actual or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, analingus or any sexual acts which are prohibited by law;

3. Touching or fondling of the human breast(s), buttock(s), anus or genital(s).

Public Building: Is any building owned, leased or held by the United States of America, the State of Colorado, Mesa County or

the City of Grand Junction, any school district or other agency or political subdivision, which building is used for governmental purposes.

School: Is any public or private educational facility including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, middle schools, junior high schools, high schools, vocational schools, special education schools, colleges, universities and trade schools. School includes the school grounds, buildings, structures and facilities.

Church: Is any structure or building for public worship.

Park: Is any public property kept, used and maintained for recreational, ornamental or aesthetic purposes.

Playground: Is any property, public or private, used for and equipped with facilities for recreation especially by children. A playground may be incidental to school use but is not limited to school use or school facilities as defined herein.

Section 4: Location.

No person, corporation, or business of any sort or description, shall cause or permit the location or operation of an adult entertainment establishment as defined herein 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, public building or within 1,000 feet of any residentially zoned property as the same are established under the Grand Junction Zoning and Development Code. The operation of an adult entertainment establishment 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 herein. The operation of an adult entertainment establishment shall be allowed as a use of right on any property zoned C1, C2, I1 or I2 as the same are established under the Grand Junction Zoning and Development Code.

Section 5. Nonconforming Uses.

Uses made nonconforming by this Ordinance shall be governed by the City of Grand Junction Zoning and Development code.

Section 6: Penalty for Violation.

Violation of this ordinance is punishable by a fine not exceeding four hundred ninety-nine dollars or by imprisonment not to exceed ninety days or by both such fine and imprisonment. Each day during any portion of which any violation is committed, permitted or continued shall constitute a separate offense. When there is reason to believe that a violation of this provision is or has been occurring the city attorney may institute and maintain an action in the municipal or any other appropriate court to enjoin

the alleged violation. Nothing shall prohibit simultaneous civil and criminal relief from being sought.

Section 7. 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 8: Publication.

The City Clerk shall certify to the repeal and reenactment of this Ordinance, 1966, and shall cause it to be published in The Daily Sentinel, a newspaper of general circulation in and for the City of Grand Junction, in accordance with the procedure for affording public notice.

INTRODUCED ON FIRST READING THIS 17TH DAY OF OCTOBER, 1990;

Attest:

Neva B. Lockhart, CMC

City Clerk

PASSED and ADOPTED this 7th day of November, 1990.

William E. McCurry

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2496, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 17th day of October, 1990, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of said City this 8th day of November, 1990.

Neva B. Lockhart

Neva B. Lockhart, CMC
City Clerk

Published: October 21, 1990

Published: November 9, 1990

Effective: December 9, 1990