

## ORDINANCE NO. 494

**AN ORDINANCE DEFINING A SEXUALLY ORIENTED BUSINESS AND RELATED SUBJECTS, LIMITING THE PLACEMENT OF SEXUALLY ORIENTED BUSINESSES, ESTABLISHING TOURISM CORRIDORS, ESTABLISHING DISTANCE LIMITATIONS FOR PLACEMENT OF SEXUALLY ORIENTED BUSINESSES NEAR CHURCHES, SCHOOLS, PUBLIC PARKS, RESIDENTIAL AREAS AND TOURISM CORRIDORS, ESTABLISHING SIGNAGE REQUIREMENTS, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE PEOPLE OF THE CITY OF MEXICO BEACH, FLORIDA:**

### **SECTION ONE.**     *Definitions*

- (a) *Sexually oriented business.* For the purpose of this article, the term “sexually oriented business” shall mean such sexually oriented business as shall be included in this article, as amended from time to time.
- (b) *Adult book, video or novelty store.* For the purpose of this article, the term “adult book, video or novelty store” means a commercial establishment or place of business having more than an insubstantial or incidental portion of its stock in trade, or more than an insubstantial or incidental segment or section of its premises devoted to the sale or display of sexually oriented products. “*Insubstantial or incidental*” means not more than 5% of its stock in trade of books, videos or novelty items; or not more than 5% of the store’s segment or section of its premises devoted to the sale or display of books, videos or novelties.
- (c) *Adult motion picture theatre.* For the purpose of this article, the term “adult motion picture theatre” means a commercial establishment or place of business operating in whole or in part within an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (as defined below), for observation by patrons therein.
- (d) *Sexually oriented products.* For the purposes of this article, “sexually oriented products” means the following:
- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”; or
  - (2) Instruments, devices, or paraphernalia, which depict or simulate “specified anatomical areas” or are intended or designed for use in connection with “specified sexual activities”.
- (e) *Specified sexual activities.* For the purposes of this article, the term “specified sexual activities” shall mean:
- (1) Human genitals in a state of sexual stimulation or arousal’

- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, public region, buttock or female breast; and
- (4) Sadism or masochism, including bondage and discipline

(f) *Specified anatomical areas.* For the purposes of this article, the term “specified anatomical areas” shall mean:

- (1) Less than completely and opaquely covered.
  - a. Human genitals, pubic region;
  - b. Buttock; and
  - c. Female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(g) *Adult club.* For the purposes of this article, “adult club” shall mean any place of business or commercial establishment which offers three or more days in any 60-day period live entertainment including (i) exhibition of any portion of the entertainer’s buttocks or any simulation thereof, or (ii) if female, exhibition of any portion of the entertainer’s breast below the top of the areola or any simulation thereof, or (iii) dancing with employees or independent contractors in exchange for compensation.

(h) *Church.* As usual the term “church” shall mean a church, temple or other structure used on a permanent basis primarily for public worship.

## **SECTION TWO. Declaration of businesses.**

The following businesses are declared to be sexually oriented businesses:

- (a) Adult book, video or novelty store
- (b) Adult motion picture theater
- (c) Adult club

## **SECTION THREE.**

No sexually oriented business may be located on any land within the City of Mexico Beach, other than as described within this ordinance.

## **SECTION FOUR. Tourism corridors.**

“Tourism corridors” shall mean the following areas or roads within the City of Mexico Beach.

- (a) Highway 98
- (b) 15<sup>th</sup> Street
- (c) Canal Prkwy
- (d) 7<sup>th</sup> Street
- (e) S 37<sup>th</sup> Street
- (f) Shopping Center located between N. 30<sup>th</sup> Street and N. 32<sup>nd</sup> Street

#### **SECTION FIVE. Distance limitation.**

No sexually oriented business shall be located nearer than 1,500 feet radial spacing to the same or any other sexually oriented business nor nearer than 1,500 feet to an (i) church, or (ii) public, private or parochial elementary, middle or high school, or (iii) public park, or (iv) areas designated residential on the land use map of the City of Mexico Beach, nor nearer than 500 feet to the nearest right of way line of any tourism corridor, or within 500 feet of the mean high water mark of the Gulf of Mexico. Such distance shall be measured by radial spacing as follows: in the case of another sexually oriented business or a church, by measuring from the nearest corner of the applicant's business to the nearest corner of the church or existing sexually oriented business, excluding projections, caves or overhangs; in the case of a school, park, residential-designated property, or right-of-way of any tourism corridor, by measuring from the nearest corner of the applicant's building, excluding projections, eaves or overhangs to the nearest point of the school grounds, park, property designated residential or right-of-way of any tourism corridor or for areas designated residential on the land use map of the city.

#### **SECTION SIX. Application to new churches, schools and public parks.**

Where a sexually oriented business is located in conformity with the provisions of this article, the subsequent locating of a church, school or public park within 1,500 feet of such existing sexually oriented business shall not be construed to cause such sexually oriented business to be in violation of this article.

#### **SECTION SEVEN. Sign requirements.**

All sexually oriented businesses shall comply with the following sign requirement:

- (a) All signs shall be flat wall signs;
- (b) All signs must conform to the Mexico Beach LDR and applicable sign ordinances.
- (c) No sexually oriented product or pictures of a sexually oriented product or entertainer on the premises shall be displayed in window areas or any area where they can be viewed from a sidewalk or a public street.

#### **SECTION EIGHT. Severability.**

In the event any portion of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this Ordinance. Further in the event this ordinance or any provision hereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person property or circumstance.

#### **SECTION NINE. Article not independently authorizing use.**

Nothing in this article shall be construed to permit the establishment or maintenance of any sexually oriented business not otherwise permitted the laws and ordinances of the City of Mexico Beach.

**SECTION TEN. Conflicts.**


All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION ELEVEN. Effective date.**

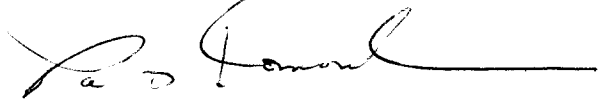
This ordinance shall take effect immediately upon its adoption.

THIS ORDINANCE ADOPTED THIS 9<sup>th</sup> DAY OF August 2005.

**CITY COUNCIL OF THE CITY  
OF MEXICO BEACH, FLORIDA**

BY:   
Mayor

Attest:   
Auditor/Clerk



The following commissioners voted yea:

The following commissioners voted nay: