

ORDINANCE NO. 1538

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT CODE RELATED TO ADULT USES; AMENDING THE DISTANCE LIMITATIONS FOR ADULT BUSINESSES; REPEALING UNIQUE SIGN AND APPEARANCE STANDARDS FOR BODY ALTERING BUSINESSES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 5.04.01 of the Land Development Code of the City of Panama City Beach related to Definitions, is amended to read as follows (new text **bold and underlined**, deleted text ~~struck through~~):

5.04.01 Adult Uses, Sexually Oriented Businesses or Body Altering Businesses

A. Short title. This ordinance may be known as the "Panama City Beach Sexually Oriented and **Body Altering Business Ordinance.**"

(ZO - Article XIX Ord. 544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00)

B. Definitions. For the purposes of this section 5.04.00, the following definitions shall apply:

1. **Adult Book, Video or Novelty Store:** The term "**Adult Bookstore,**" "**Adult video store,**" or "**Adult novelty store**" means an establishment which sells, leases or rents **Adult Material** for any form of consideration, unless the **Adult Material** is **Accessible** only by employees and the gross income from the sale or rental of **Adult Material** comprises less than twenty (20%) per cent of the gross sales of the store or less than ten percent (10%) of the individual items publicly displayed at the establishment as stock in trade.
2. **Adult Club:** The term "**Adult Club**" shall mean any place of business or commercial establishment that permits, suffers or allows individuals for consideration in their service to customers or in a performance for customers on more than 3 days in a 60 day period to

display or expose "**Specified Anatomical Areas**" or permits, suffers or allows individuals for consideration to wear any covering, tape, pasties or other device that simulates or otherwise gives the appearance of the display or exposure of any "**Specified Anatomical Areas.**"

3. **Adult Materials:** The term **Adult Materials** means any one or more of the following:
- (a) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations or recordings, novelties and devices, which have, as their primary or dominant theme, matter depicting, illustrating, describing or relating to "**Specified Sexual Activities**" or less than completely and opaquely covered "**Specified Anatomical Areas;**" or
 - (b) Instruments, devices or paraphernalia which are designed for **Use** in connection with "**Specified Sexual Activities.**"

(Ord. #1254, 11/14/13)

4. **Adult Motion Picture Theater:** The term "**Adult Motion Picture Theater**" means a commercial establishment or place of business operating in whole or in part within an enclosed **Building** or a portion or part of an enclosed **Building** or an open-air theater, designed to permit viewing by patrons seated in automobiles or other seating provisions, for any form of consideration, film, video or any other visual material or method which has, as its primary or dominant theme, matters depicting, illustrating or relating to "**Specified Sexual Activities**" or "**Specified Anatomical Areas**" for observation by patrons thereof and includes any hotel or motel, boarding house, room house or other lodging which, for any form of consideration, advertises the presentation of such film material. For the purposes of this section 5.04.00an **Adult Motion Picture Theater** includes an **Adult** arcade, an **Adult** motel and an **Adult** motion picture booth.
5. **Adult Motion Picture Mini-Theater:** The term "**Adult Motion Picture Mini-Theater**" means a commercial establishment or place of business operating in whole or in part within an enclosed **Building** or a portion or part of an enclosed **Building**, designed to permit viewing by patrons for any form of consideration, film, video or other visual material or method which has, as its primary or dominant theme, matters depicting, illustrating or relating to "**Specified Sexual Activities**" or "**Specified Anatomical Areas,**" for observation by patrons thereof, including an **Adult** arcade or **Adult** motion picture booth and so constructed that any patron viewing such material or method is not at all times fully visible from the neck to the kneecap by other patrons and the management.
6. **Body Altering Business:** The term "**Body Altering Business**" shall mean such **Uses** as shall be included in section 5.04.01D.
7. **Body Piercing Establishment:** The term "**Body Piercing Establishment**" means a commercial establishment or place of business at which the body or skin of a human being is pierced or which holds itself out to the public as a place where such body piercing can be purchased or arranged. The **Use** of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both, is exempt from this definition.

8. **Church:** As used herein the term "**Church**" shall mean a **Church**, temple or other structure used on a permanent basis primarily for public worship.
9. **Public Park:** The term "**Public Park**" shall mean and include those facilities owned by the State of Florida, Panama **City Beach** or any **Public Park** so designated by Panama **City Beach** and include the Dan Russell Pier and Aaron Z. Bessant Park facility, the County Pier facility, the Frank K. Brown Park, the Maggi Still Park and the Scott Park.
10. **School:** The term "**School**" means a public, private or parochial elementary, middle or high **School**.
11. **Sexually Oriented Businesses:** The term "**Sexually Oriented Business**" shall mean such **Uses** as shall be included in section 5.04.01C.
12. **Specified Sexual Activities:** The term "**Specified Sexual Activities**" shall mean:
- (a) Human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy;
 - (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
 - (d) Sadism or masochism, including bondage.
13. **Specified Anatomical Areas:** The term "**Specified Anatomical Areas**" shall mean:
- (a) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttock; and
 - (3) Female breast below a point immediately above the top of the areola; and
 - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
14. **Tattoo Establishment:** The term "**Tattoo Establishment**" means a commercial establishment or place of business at which the skin of a human being is marked by piercing in or otherwise applying coloring matter so as to form indelible or lasting marks or figures or which holds itself out to the public as a place where such tattooing can be purchased or arranged.
15. **Tourist Corridor:** The term "**Tourist Corridor**" means that portion of the following roads falling within the boundaries of the City of Panama City Beach at any time: (i) Front Beach Road (Hwy 98 Alt), (ii) South Thomas Drive, (iii) Thomas Drive, (iv) Hutchinson Boulevard (Middle Beach Road), (v) Panama **City Beach** Parkway (Back Beach Road or Highway 98), (vi) State Road 79, and (vii) Bay Parkway.

(Ord. #398, § 1, 8-27-92; Ord. #544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00; Ord. #1474, 10/25/18)

C. Sexually Oriented Businesses. The following *Uses* are declared to be sexually oriented or *Adult* businesses:

1. *Adult Book, Video or Novelty Store.*
2. *Adult Motion Picture Theater.*
3. *Adult Club.*

(Ord. 398, § 1, 8-27-92; Ord. 544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00)

D. Body Altering Businesses. The following *Uses* are declared to be Body Altering Businesses:

1. *Body Piercing Establishment.*
2. *Tattoo Establishment*

E. Distance limitation - Sexually Oriented Businesses. No *Sexually Oriented Business* shall be initially established nearer than fifteen hundred (1,500) feet to any other *Sexually Oriented Business* nor nearer than fifteen hundred (1,500) feet to any (i) *Church* or (ii) *School* or (iii) *Public Park*, nor nearer than two hundred fifty (250) feet to the nearest right-of-way line of any *Tourist Corridor*. Such distance shall be measured by radial spacing as follows:

1. In the case of another sexually oriented or *Adult* business or a *Church*, by measuring from the nearest corner or side of the sexually oriented or *Adult* business *Building* to the nearest corner or side of the *Church Building* or the other sexually oriented or *Adult* business *Building*;
2. In the case of a *School* or *Public Park*, by measuring from the nearest corner or side of the *Sexually Oriented Business Building* to the nearest boundary of the *School* or *Public Park Parcel*;
3. In the case of any *Tourist Corridor*, by measuring from the nearest corner or side of the *Sexually Oriented Business Building* to the nearest right-of-way line of any *Tourist Corridor*.
4. In all such measurements, *Building* projections, *Eaves* or overhangs shall be excluded.
5. In the case of a *Sexually Oriented Business* operated outside a *Building*, measurement shall be from the closest place of such operation.

(Ord. 398, § 1, 8-27-92; Ord. 544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00)

F. Distance Limitation - Body Altering Businesses. No *Body Altering Business* shall be initially established nearer than ~~fifteen~~ five hundred (~~1,500~~) feet to any other *Body Altering Business* nor nearer than ~~fifteen~~ five hundred (~~1,500~~) feet to any (i) *Church* or (ii) *School* or (iii) *Public Park*, nor nearer than ~~two~~ one hundred ~~fifty~~ (~~25100~~) feet to the nearest right-of-way line of any *Tourist Corridor*. Such distance shall be measured by radial spacing as follows:

1. In the case of another *Body Altering Business* or a *Church*, by measuring from the nearest corner or side of the *Body Altering Business Building* to the nearest corner or side of the *Church Building* or the other *Body Altering Business Building*

2. In the case of a *School* or *Public Park*, by measuring from the nearest corner or side of the *Body Altering Business Building* to the nearest boundary of the *School* or *Public Park Parcel*;
- ~~3. In the case of any *Tourist Corridor*, by measuring from the nearest corner or side of the *Body Altering Business Building* to the nearest right-of-way line of any *Tourist Corridor*.~~
4. In all such measurements, *Building* projections, *Eaves* or overhangs shall be excluded.
- ~~5. In the case of a *Sexually Oriented Business* operated outside a *Building*, measurement shall be from the closest place of such operation.~~

(Ord. # 651, § 1, 2-24-00)

G. Sign and Appearance Requirements – Sexually Oriented Businesses. All new *Sexually Oriented Businesses* and all existing *Sexually Oriented Businesses* by May 1, 1998 as to requirements (1) through (4) below and by April 1, 1998 as to requirement (5) below, shall comply with the following *On-Premises* Sign and appearance requirements. All capitalized terms used in this section shall have the meanings ascribed in the City of Panama City Beach Sign Code, as amended from time to time, which ordinance shall apply to the extent not inconsistent with this section.

1. All Signs shall be flat Wall Signs.
2. The amount of allowable Sign Area shall be one square foot of Sign Area per linear foot of *Frontage* of that *Premises*, to a maximum of twenty-five (25) square feet.
3. No (i) merchandise or (ii) pictures or advertisements of the sexually oriented or *Adult* products, services or entertainment on the *Premises* shall be displayed in *Building Glass Areas* or any area where they can be viewed from a *Street*.
4. Window Signs are prohibited. A single, one square foot Sign may be placed on the door to state hours of operation and admittance to *Adult* only. A single, three square foot Sign containing only the word "OPEN" may be placed in a window.
5. *Free-Standing On-Premises Signs* are prohibited.

(Ord. 544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00; Ord. # 1133, § 1, 10-23-08)

~~**H. Sign and Appearance Requirements—Body Altering Businesses.** All new *Body Altering Businesses* and all existing *Body Altering Businesses* by May 1, 1998 as to requirements (1) through (4) below and by April 1, 1998 as to requirement (5) below, shall comply with the following *On-Premises* Sign and appearance requirements. All capitalized terms used in this section shall have the meanings ascribed in the City of Panama City Beach Sign Code, as amended from time to time, which ordinance shall apply to the extent not inconsistent with this section.~~

- ~~1. All Signs shall be flat Wall Signs.~~
- ~~2. The amount of allowable Sign Area shall be one square foot of Sign Area per linear foot of *Frontage* of that *Premises*, to a maximum of twenty five (25) square feet.~~

~~3. No (i) merchandise or (ii) pictures or advertisements of the products, services or entertainment on the Premises shall be displayed in Building Glass Areas or any area where they can be viewed from a Street.~~

~~4. Window Signs are prohibited. A single, one square foot Sign may be placed on the door to state hours of operation and admittance to Adult only. A single, three square foot Sign containing only the word OPEN may be placed in a window.~~

~~5. Free Standing On Premises Signs are prohibited.~~

(Ord. # 651, § 1, 2-24-00; Ord. # 1133, § 2, 10-23-08)

I. **Adult Motion Picture Mini-Theaters Prohibited.** *Adult Motion Picture Mini-Theaters* are prohibited. It shall be unlawful for any person to operate or cause or permit to be operated an *Adult Motion Picture Mini-Theater*.

(Ord. # 651, § 1, 2-24-00)

J. **Reserved**

K. **Reserved**

L. **Section Not Independently Authorizing Use.** Nothing in this section 5.04.00 shall be construed to permit the establishment or maintenance of any sexually oriented or **Body Altering Businesses** not otherwise permitted by the other chapters of this LDC or any other applicable law.

(Ord. # 398, § 1, 8-27-92; Ord. # 544, § 1, 2-12-98; Ord. # 651, § 1, 2-24-00)

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Land Development Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 8th day of October, 2020.


MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 8th day of October, 2020.


MAYOR

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