

**TOWN OF MEXICO
ORDINANCE REGULATING OBSCENE MATERIAL**

SECTION 1. DEFINITIONS

AS USED IN THIS ORDINANCE, THE FOLLOWING WORDS SHALL HAVE THE FOLLOWING MEANINGS:

“MATERIAL” MEANS ANYTHING TANGIBLE THAT IS CAPABLE OF BEING USED OR ADAPTED TO AROUSE INTEREST, WHETHER THROUGH THE MEDIUM OF READING, OBSERVATION, SOUND, OR IN ANY OTHER MANNER, BUT DOES NOT INCLUDE AN ACTUAL THREE-DIMENSIONAL OBSCENE DEVICE.

“OBSCENE” MEANS MATERIAL OR A PERFORMANCE THAT:

1. THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY STANDARDS, WOULD FIND THAT TAKEN AS A WHOLE APPEALS TO THE PRURIENT INTEREST IN SEX;

2. DEPICTS OR DESCRIBES:

A. PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF ULTIMATE SEXUAL ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED, INCLUDING SEXUAL INTERCOURSE, SODOMY, AND SEXUAL BESTIALITY; OR

B. PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF MASTURBATION, EXCRETORY FUNCTIONS, SADISM, MASOCHISM, LEWD EXHIBITION OF THE GENITALS, THE MALE OR FEMALE GENITALS IN A STATE OF STIMULATION OR AROUSAL, COVERED MALE GENITALS IN A DISCERNIBLY TURGID STATE OR A DEVICE DESIGNED AND MARKETED AS A USEFUL PRIMARILY FOR STIMULATION OF THE HUMAN GENITAL ORGANS; AND

3. TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC, POLITICAL OR SCIENTIFIC VALUE.

“OBSCENE DEVICE” MEANS A DEVICE INCLUDING A DILDO OR ARTIFICIAL VAGINA, DESIGNED OR MARKETED AS USEFUL PRIMARILY FOR THE STIMULATION OF HUMAN GENITAL ORGANS.

“PATENTLY OFFENSIVE” MEANS SO OFFENSIVE ON ITS FACE AS TO BE INTOLERABLE TO THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY STANDARDS.

“PERFORMANCE” MEANS A PLAY, MOTION PICTURE, DANCE, OR OTHER EXHIBITION PERFORMED BEFORE AN AUDIENCE.

“PROMOTE” MEANS TO MANUFACTURE, ISSUE, SELL, GIVE, PROVIDE, LEND, MAIL, DELIVER, TRANSFER, TRANSMIT, PUBLISH, DISTRIBUTE, CIRCULATE, DISSEMINATE, PRESENT, EXHIBIT, OR ADVERTISE, OR TO OFFER TO AGREE TO DO THE SAME.

“PRURIENT INTEREST IN SEX” MEANS A SHAMEFUL OR MORBID INTEREST IN SEX.

“WHOLESALE PROMOTE” MEANS TO MANUFACTURE, SELL, PROVIDE, MAIL, DELIVER, TRANSFER, TRANSMIT, PUBLISH, DISTRIBUTE, CIRCULATE, DISSEMINATE, OR TO OFFER OR AGREE TO DO THE SAME FOR PURPOSE OF RESALE.

SECTION 2. PROMOTION OF OBSCENE MATERIAL OR DEVICES PROHIBITED

(A) PERSON COMMITS AN OFFENSE IF, KNOWING ITS CONTENT AND CHARACTER, HE WHOLESALE PROMOTES OR POSSESSES WITH INTENT TO WHOLESALE PROMOTE ANY

(OBSCENE MATERIAL- ORDINANCE)

OBSCENE MATERIAL OR OBSCENE DEVICE.

- (B) A PERSON COMMITS AN OFFENSE, IF KNOWING ITS CONTENT AND CHARACTER, HE:
 - (1) PROMOTES OR POSSESSES WITH INTENT TO PROMOTE ANY OBSCENE MATERIAL OR OBSCENE DEVICE; OR
 - (2) PRODUCES, PRESENTS, OR DIRECTS AN OBSCENE PERFORMANCE OR PARTICIPATES IN A PORTION THEREOF THAT IS OBSCENE OR THAT CONTRIBUTES TO ITS OBSCENITY.
- (C) A PERSON WHO PROMOTES OR WHOLESALE PROMOTES OBSCENE MATERIAL OR AN OBSCENE DEVICE OR POSSESSES THE SAME WITH INTENT TO PROMOTE OR WHOLESALE PROMOTE IT IN THE COURSE OF HIS BUSINESS IS PRESUMED TO DO SO WITH KNOWLEDGE OF ITS CONTENT AND CHARACTER.
- (D) A PERSON WHO POSSESSES SIX (6) OR MORE OBSCENE DEVICES OR SIX (6) OR MORE OBSCENE ARTICLES, WHETHER SUCH DEVICES OR ARTICLES ARE SIMILAR OR IDENTICAL, IS PRESUMED TO POSSESS THEM WITH INTENT TO PROMOTE THE SAME.
- (E) THIS SECTION DOES NOT APPLY TO A PERSON WHO POSSESSES OR DISTRIBUTES OBSCENE MATERIAL OR OBSCENE DEVICES OR PARTICIPATES IN CONDUCT OTHERWISE PROSCRIBED BY THIS SECTION WHEN THE POSSESSION, PARTICIPATION, OR CONDUCT OCCURS IN THE COURSE OF LAW ENFORCEMENT ACTIVITIES.

SECTION 3. VIOLATIONS

EACH OFFENSE UNDER THIS ORDINANCE SHALL CONSTITUTE A CIVIL VIOLATION FOR WHICH THE TOWN MAY RECOVER CIVIL PENALTY IN THE AMOUNT OF \$1,000.

SEVERABILITY

IF ANY OF THE DEPICTIONS OR DESCRIPTIONS OF SEXUAL CONDUCT DESCRIBED IN THIS ORDINANCE ARE DECLARED BY A COURT OF COMPETENT JURISDICTION TO BE UNLAWFULLY INCLUDED HEREIN, THIS DECLARATION SHALL NOT INVALIDATE THIS ORDINANCE AS TO OTHER PATENTLY OFFENSIVE SEXUAL CONDUCT INCLUDED HEREIN.

ADOPTED: 6/7/99

SIGNED: Arthur Bordeau
ARTHUR BORDEAU (CHAIRMAN)

ROLAND ARSENAULT

Louise Waterhouse
LOUISE WATERHOUSE

Robert Lyons
ROBERT LYONS

BRIAN ELLIOTT
SELECTMEN, TOWN OF MEXICO