

SAMPLE PUBLIC NUDITY ORDINANCE

**AN ORDINANCE OF THE CITY OF _____, _____,
RELATING TO PUBLIC NUDITY; CREATING A NEW SECTION 00.00 TO
PROHIBIT PUBLIC NUDITY; DEFINING TERMS; ESTABLISHING EXEMPTIONS
TO THE PROHIBITION AGAINST PUBLIC NUDITY; PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the City Council of _____, (the "City Council"), has considered the following reports, studies, and judicial opinions concerning the adverse secondary effects of adult uses on a community:

- (a) Findings of the City Planning Commission for the City of New York, dated January 26, 1977.
- (b) Report On Zoning and Other Methods of Regulating Adult Entertainment in Amarillo [Texas], dated September 13, 1977.
- (c) Northend Cinema Inc. v. Seattle, 90 Wash.2d 709, 585 P.2d 1153 (1978).
- (d) Regulation of Criminal Activity and Adult Businesses, City of Phoenix, Arizona, May 1979.
- (e) Report to the City Planning Commission and City Council from the Planning Department of the City of Beaumont, Texas, dated September 14, 1982.
- (f) Legislative Report on an Ordinance Amending Section 28-73 of the Code of Ordinances of the City of Houston, Texas; Providing for the Regulation of Sexually Oriented Commercial Enterprises, Adult Bookstores, Adult Movie Theaters and Massage Establishments; and Making Various Provisions and Findings Relating to the Subject, a report prepared by the Committee on the Proposed Regulation of Sexually Oriented Businesses, dated 1983.
- (g) Adult Entertainment Businesses in Indianapolis, an analysis prepared by the Department of Metropolitan Development, dated February, 1984.
- (h) Adult Entertainment Business in Oklahoma City, A Survey of Real Estate Appraisers, a report prepared by the Community Development Department of the City of Oklahoma City, Oklahoma, dated March 3, 1986.
- (i) Summary of land use studies on secondary effects of adult uses conducted by Garden Grove, California; Whittier, California, Cleveland, Ohio; and Los Angeles, California.
- (j) City of Erie v. Pap,s A.M., - U.S. -, 2000 WL 313381.
- (k) Barnes v. Glen Theatre, 501 U.S. 560 (1991).
- (l) California v. LaRue, 409 U.S. 109 (1972).

WHEREAS, is a community known for its wholesome civic and recreational activities and its traditional family-oriented lifestyle; and

WHEREAS, it is in the public interest to maintain the social order, morality, health, welfare, and safety of the citizens of _____, _____; and

WHEREAS, the City Council finds that the prohibitions contained herein are the most reasonable and minimal restrictions required so as to regulate conduct that is adverse to the public health, safety, welfare, and morality within when nudity occurs at locations where the public is present or likely to be present, or where such conduct would be readily visible to the public; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
_____, _____:

(1) As used in this section:

- (a) "Adult use establishment" means an establishment as defined in Section 00.00 of the city code.
- (b) "Entity" means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.
- (c) "Nude" means the showing of:
 - 1. Human male or female genitals or pubic area with less than a fully opaque covering; or
 - 2. Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing or covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
 - 3. The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed; or
 - 4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (d) "Person" means any live human being ten years of age or older.
- (e) "Place Provided or Set Apart for Nudity" means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.
- (f) "Public Place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises, or portions thereof, such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.
- (2) It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.
- (3) A person violating subsection (3) of this section is guilty of a misdemeanor and, on conviction, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or be imprisoned not exceeding six (6) months, or both.
- (4) This section shall not be deemed to address photographs, movies, video presentations, or any other non-live performances.
- (5) This Act may be prosecuted by a city or county attorney or by private action brought by an aggrieved party in a court of competent jurisdiction.