

ORDINANCE NO. 1-1-01

AN ORDINANCE TO ESTABLISH A LAW REGARDING PUBLIC NUDITY; TO ESTABLISH A PENALTY AND PROVIDE A METHOD OF ENFORCEMENT; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104, the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the Sarpy County Board of Commissioners (“County Board”);

WHEREAS, it is the intent of the County Board to enact a Public Nudity Ordinance;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-187, the County may regulate, through an ordinance, violations of the public peace and good order of the County by public nudity; and

WHEREAS, the Sarpy County Board has held a public hearing on the matter, after giving due notice as required by law.

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF SARPY, NEBRASKA:

SECTION 1. Definitions: For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include words in the plural number. The word “shall” is always mandatory, and not merely directory.

- a) **Nude, nudity, or a state of nudity** means the exposure, with less than a fully opaque covering, of the human male genital area, female genital area, buttocks, nipple of the female breast, or areola of the female breast.
- b) **Public place** means all spaces owned by or open to the general public, whether or not an admission or cover charge is levied for entrance thereto; and public streets, sidewalks, alleys, or other public thoroughfares, and areas in or such close proximity thereto, as to be observed by the public traveling on such street, sidewalk, or other thoroughfare.

SECTION 2. Prohibited acts:

It shall be unlawful for any person to intentionally appear in a public place while nude or in a state of nudity.

SECTION 3. Exceptions:

- a) No person shall be in violation of this Ordinance for breastfeeding a child.
- b) This Ordinance shall not apply to children under the age of five years old.
- c) No person shall be in violation of this Ordinance for appearing nude or in a state of nudity in any dressing/changing room, locker room, restroom facility, or hospital, clinic, or other similar medical facility in which appearing nude or in a state of nudity is necessary for health-related purposes.

- d) No person shall be in violation of this Ordinance for appearing nude or in a state of nudity in the presence of a licensed physical therapist, licensed massage therapist, licensed athletic trainer, or licensed cosmetologist, engaged in performing the functions authorized under the license held.
- e) This Ordinance shall not apply to models that are part of a nude modeling studio that is part of a proprietary school licensed by the State of Nebraska; or a college or junior college or university supported entirely or in part by public taxation; or a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- f) This Ordinance shall also not apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama.

SECTION 4. Penalty:

Any person found to be in violation of this Ordinance shall be guilty of a Class III misdemeanor, punishable by a maximum of three months imprisonment, a five hundred dollar fine, or both.

SECTION 5. Intent:

It is the intent of this Ordinance to promote the public peace and order of the County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on exercises of free speech that are protected by the First Amendment.

SECTION 6. Effective area:

This Ordinance is effective in Sarpy County, but it shall not be effective within the corporate boundaries of Bellevue, LaVista, Springfield, Gretna, and Papillion; nor shall it be effective within the area outside of the corporate boundaries of Bellevue, LaVista, Springfield, Gretna, and Papillion in which those cities have been granted and are exercising powers by ordinance on a similar subject matter.

SECTION 7. Effective date:

This Ordinance shall take effect and be in force fifteen days after its passage, approval, and publication, as provided by law.

Passed and Adopted this 10th day of December, 2013.

Jin Warner

 Chairperson

Attest:
[Signature]

 County Clerk

