

(Published in the Topeka Metro News August 24, 2015)

ORDINANCE NO. 19965

AN ORDINANCE introduced by Councilmember Jeffrey Coen, concerning public nudity, and creating new City of Topeka Code § 9.45.110.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 9.45.110, which said section reads as follows:

Public nudity prohibited.

(a) It is unlawful for any person to knowingly or intentionally appear in a state of nudity in a public place.

(b) Definitions.

(1) "Nudity" means the showing of the human male or female genitals, anus, anal cleft or anal cleavage, or the showing of the female breast below a horizontal line across the top of the areola at its highest point 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 wearing apparel, provided the areola is not exposed in whole or in part.

(2) "Public Place" means any location frequented by the public, or where the public is present or likely to be present including but not limited to, streets, avenues, highways, roads, waterways, stores, meeting facilities, or businesses and commercial establishments.

28 (3) “Places set apart for nudity” means public places outside of the
29 home where nudity or exposure is necessary or customarily expected; including,
30 but not limited to, public restrooms, enclosed single-sex functional shower, locker
31 and/or dressing room facilities, enclosed motel rooms and hotel rooms designed
32 and intended for sleeping accommodations, doctor’s offices and portions of
33 hospitals set apart for this purpose.

34 (c) The provisions of subsection (a) shall not apply to:

35 (1) A child under the age of five (5) years.

36 (2) A mother breastfeeding her child.

37 (3) Places set apart for nudity.

38 (4) Any theater, concert hall, art center, museum or similar
39 establishment that is primarily devoted to the arts or theatrical performances and
40 in which nudity is incorporated into the art exhibit or theatrical performance and is
41 not a mere guise or pretense used to exploit the conduct of being nude for profit
42 or commercial gain.

43 (5) Nudity incorporated into an educational curriculum at an accredited
44 university, technical school or institution whose classes may transfer to an
45 accredited university or technical school.

46 (d) Public nudity is a class C misdemeanor punishable by a sentence of
47 imprisonment in the City jail not to exceed 30 days and/or a fine of not less than \$1 or in
48 excess of \$499.

49 Section 2. This ordinance shall take effect and be in force from and after its
50 passage, approval and publication in the official City newspaper.

Section 3. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 4. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on August 18, 2015.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk