

ORDINANCE NO. 111, 2019  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 17-142 OF THE CODE OF THE CITY  
OF FORT COLLINS REGARDING PUBLIC NUDITY

WHEREAS, Section 17-142 of the City Code currently prohibits public exposure of the buttocks, genitals, or lower part of the female breast with some exceptions (the “Nudity Ordinance”); and

WHEREAS, in 2016 Free the Nipple – Fort Collins and two individual plaintiffs sued the City in federal district court alleging that the Nudity Ordinance violates their rights of free speech and equal protection under the United States Constitution; and

WHEREAS, in February 2017, the district court enjoined the City from enforcing the Nudity Ordinance to the extent that it prohibits women, but not men, from knowingly exposing their breasts in public, and in February 2019 the Tenth Circuit Court of Appeals affirmed the district court’s order; and

WHEREAS, in July 2019, the City and the plaintiffs stipulated to a permanent injunction enjoining the City of Fort Collins from enforcing the Nudity Ordinance to the extent that it prohibits women, but not men, from knowingly exposing their breasts in public, and the district court entered an order making such injunction permanent; and

WHEREAS, to prevent confusion for residents, visitors and law enforcement about what conduct is or is not prohibited within the City, the City Council finds that it is the best interests of the City to amend the Nudity Ordinance to eliminate the prohibition on exposure of the female breast.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 17-142 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 17-142. - Public nudity.**

(a) No person who is ten (10) years of age or older shall intentionally expose any portion of his or her genitals or buttocks while that person is located:

- (1) In a public right-of-way, in a natural area, recreation area or trail, or recreation center, in a public building, in a public square, or while located in any other public place;  
or

(2) On private property if the person is in a place that can be viewed from the ground level by another who is located on public property and who does not take extraordinary steps, such as climbing a ladder or peering over a screening fence, in order to achieve a point of vantage.

(3) As used in this Section, *public place* shall mean a place, regardless of ownership, to which the public or a substantial number of the public has access, and includes but is not limited to transportation facilities, schools, places of amusement, playgrounds, and the common areas of private buildings and facilities.

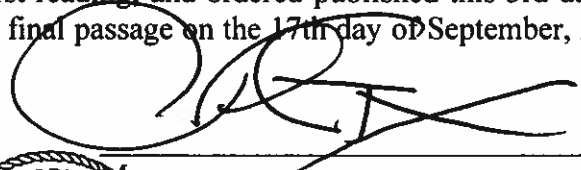
(b) The prohibition in subsection (a) does not extend to any:

(1) Persons undergoing bona fide emergency medical examinations or treatment;

(2) Person located in a dressing room, shower room, bathroom, or other enclosed areas not visible from any public place, specifically designated for changing clothes or in which nudity is expressly permitted; or

(3) Person participating in a legally protected speech or religious activity in a public place within any theater, concert hall, museum, school or other establishment that is serving as a performance or worship venue, provided the person's nudity is an inherent part of such speech or religious activity.

Introduced, considered favorably on first reading, and ordered published this 3rd day of September, A.D. 2019, and to be presented for final passage on the 17th day of September, A.D. 2019.



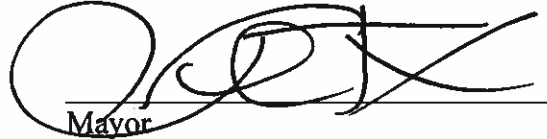
Mayor

ATTEST:

  
City Clerk



Passed and adopted on final reading on the 17th day of September, A.D. 2019.



Mayor

ATTEST:

  
City Clerk

