



THE
CITY of PELLA

STAFF MEMO TO COUNCIL

ITEM NO: K-2
 SUBJECT: Indecent Exposure Drafted Ordinance
 DATE: April 5, 2022

BACKGROUND:

The purpose of this Policy and Planning session is to discuss a draft ordinance which is intended to regulate indecent exposure for body parts not covered under current state law. As background, nudity laws in Iowa generally pertain to pubic and genital areas. As a result, an elected official has requested that Council consider a nudity ordinance that regulates buttocks and nipples of female breasts. In considering this item, it is important to note that the attached ordinance has been reviewed by the city's legal counsel. In addition, numerous cities across Iowa have already adopted similar nudity ordinances in regards to buttocks and nipples of female breasts. Listed below is a brief summary of the various nudity ordinances:

- The following cities have nudity ordinances referring to a woman's nipple, the areola, full breast, and anus of a male or female: Ankeny, Cedar Rapids, Cummings, Des Moines, West Branch, West Des Moines, and Windsor Heights.
- Council Bluffs has a nudity ordinance similar to those above; however, it also references the anus or buttocks of a male or female.
- The following cities have nudity ordinances that read similar to Iowa Code 709.9 adding references to buttocks, female breasts, and additional sex act: Indianola, Iowa City, and West Burlington.
- The following cities have ordinances referring to public nudity: Nevada, North Liberty (includes references to breast and buttocks), Ottumwa, Steamboat Rock.

Summary

Staff is seeking Council direction regarding the attached drafted indecent exposure ordinance prior to presenting for formal consideration. It is important to note that any violation of this ordinance would be a municipal infraction which is punishable by a \$250 fine for the first offense.

ATTACHMENTS: Drafted Ordinance
 REPORT PREPARED BY: City Administration
 REVIEWED BY: City Administrator, City Attorney, Police Chief, City Clerk
 RECOMMENDATION: Seeking Council direction

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF PELLA, IOWA BY ADOPTING A NEW SECTION 41.14 RELATING TO INDECENT EXPOSURE OR CONDUCT

Be it enacted by the City Council of the City of Pella, Iowa:

SECTION 1. TEXT AMENDMENT. The City Code of the City of Pella, Iowa, is hereby amended by adopting the following new Section 41.14:

41.14 INDECENT EXPOSURE OR CONDUCT

It is unlawful for any person to knowingly and intentionally engage in or cause another person to commit any act of indecent exposure or conduct in a place open to public view.

1. "Indecent exposure or conduct" means the showing of any part of the human buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.
2. Exceptions to this section shall include:
 - A. When the conduct cannot constitutionally be prohibited by this section because it is otherwise protected by the United States Constitution or the State of Iowa Constitution.
 - B. A mother breastfeeding her child or expressing breast milk in any public or private location.
 - C. Any bona-fide medical treatment or procedure.
 - D. Conduct regulated under Iowa Code Chapter 728.
 - E. When the conduct occurs in a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading: _____
 Second Reading: _____
 Third Reading: _____

Passed and adopted this _____ day of _____, 2022.

Donald DeWaard, Mayor

ATTEST:

Mandy Smith, City Clerk