



# City of West Allis

Ordinance: O-2016-0003

7525 W. Greenfield Ave.  
West Allis, WI 53214

**File Number: O-2016-0003**

**Final Action:**

**Sponsor(s):** Safety & Development Committee

JAN 19 2016

Ordinance to Repeal and Recreate Subsection 6.02(21) of the West Allis Revised Municipal Code Relating to Public Nudity.

The Common Council of the City of West Allis do ordain as follows:

PART I. Subsection 6.02(21) of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read as follows:

## 6.02 PUBLIC OFFENSES.

\* \* \*

(21) Nudity in Public Place.

(a) Declaration of Intent.

1. Whereas, the Common Council of the City of West Allis has determined that certain modification need be made to Ordinance No. 6010, entitled "An Ordinance to Create Section 6.02(21) of the Revised Municipal Code Regarding Nudity in a Public Place," originally passed by the Common Council on April 20, 1993, due to the Seventh Circuit Court of Appeals decision in *Foxxxy Ladyz Adult World, Inc. v. Village of Dix*; and,

2. Whereas, the Common Council has conducted an extensive review of available reports and studies concerning the detrimental secondary effects associated with nudity in public places. That secondary effects reports and studies that have been reviewed include the following: *Effects of Adult Entertainment Businesses on Residential Neighborhoods*, El Paso, TX (1986); *Nude Entertainment Study*, Adams County, CO (1988); *An Analysis of the Effects of Sexually Oriented Businesses on the Surrounding Neighborhoods*, Dallas, TX (1997); *Sexually-Oriented Business Study*, Rochester, NY (2000); *Crime-Related Secondary Effects of Sexually-Oriented Businesses*, Palm Beach County, FL (2007); *Does the Presence of Sexually-Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analyses*, Eric S. McCord and Richard Tewksbury (2012); *Testimony on SB 3348*, Richard McCleary and Lori Sexton (2012); and,

3. Whereas, the Common Council has reviewed the holdings and findings of the following court cases: *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Urmanski v. Town of Bradley*, 2000 WI App. 141, 613 N.W. 2d 905; *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Foxxxy Ladyz Adult World, Inc. v. Village of Dix*, 779 F.3d 706 (7th Cir. 2015); and,

4. Whereas, the Common Council finds that nudity in public places has a negative impact on property

values; increases crime rates, including sexually-based and alcohol-related offenses; and results in deterioration of nearby residential neighborhoods; and,

5. Whereas, the Common Council is deeply concerned about the risk to the health, safety, and welfare of West Allis residents from the deleterious secondary effects associated with nudity in public places; for that purpose, the enactment of the following subsection is hereby reaffirmed.

(b) Definition. "Nudity" means the showing of the human male or female genitals, or pubic area with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

(c) Prohibition. No person shall knowingly or intentionally, in a public place, appear in a state of nudity.

(d) Exception. Subsection (c) does not apply to a mother's breast-feeding of her child.

\* \* \*

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

ATTO-R&R SS 6.02(21) PublicNudity

PASSED           JAN 19 2016          

APPROVED           1/21/16          

          Monica Schultz            
Monica Schultz, City Clerk

          Dan Devine            
Dan Devine, Mayor