

A RESOLUTION OF THE BOARD OF _____ COUNTY COMMISSIONERS [OR OTHER GOVERNING BODY] PURSUANT TO THE PROVISIONS OF [APPLICABLE ENABLING STATUTE] PROHIBITING CERTAIN CONDUCT IN PUBLIC PLACES; DECLARING CERTAIN CONDUCT IN PUBLIC PLACES TO CONSTITUTE A PUBLIC NUISANCE AND IMPOSING PENALTIES FOR THE VIOLATORS OF THIS RESOLUTION INCLUDING FINES, IMPRISONMENT AND DECLARATION OF PUBLIC NUISANCE, AS APPROPRIATE.

WHEREAS, The Board of County Commissioners of _____ County, [STATE], is authorized to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, The Board of County Commissioners has determined that certain conduct in public places leads to a public nuisance by virtue of its lewd nature; and

WHEREAS, The board believes that certain lewd activities carried on in public places for profit are highly detrimental to public health, safety and welfare and lead to the debasement of both women and men and promote violence, public intoxication, prostitution and other serious criminal activities; and

WHEREAS, The Board is fully aware of and fully respects the fundamental constitutional guarantees of free speech and free expression, the fundamental right of individuals and groups to practice and live in accordance with their beliefs, as well as the fundamental right of parents to inculcate their beliefs in their children, and realizes that restrictions of such freedoms must be carefully drafted and enforced so that speech, expression and the other fundamental rights enumerated above are not curtailed except as essential to further the County's interest in ensuring public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED:

1. That the following conduct in public places is hereby proscribed and declared to constitute a public nuisance:

- a. Engaging in actual or simulated sexual intercourse;
- b. Engaging in actual or simulated deviate sexual intercourse;
- c. Appearing in a state of nudity with the intent or purpose to cause (1)sexual arousal or sexual gratification of the perpetrator or a third party, or (2) affront or alarm to any third party; or
- d. Fondling the genitals of himself, herself or another person.

2. "Nudity" means the showing of the human male or female genitals or anus with less than a fully opaque covering or the exposure of any device, costume or covering which gives the appearance of or simulates the genitals or anus.

3. "Public Place" includes all outdoor places owned by or open to the public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

4. In addition to the specific penalties provided in this resolution, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity

is a public nuisance, subjecting the owner, proprietor or other operator thereof to any and all actions authorized by the State of _____ for the abatement of public nuisances.

5. Should a court of competent jurisdiction determine that any part of this resolution, or any application or enforcement of it is excessively restrictive of such rights or liberties of free speech, free expression, the fundamental right of individuals and groups to practice and live in accordance with their beliefs, the fundamental right of parents to inculcate their beliefs in their children or other fundamental rights, then such portion of the resolution, or specific application of the resolution, shall be severed from the remainder, which shall continue in full force and effect.

7. PENALTY. Whoever violates the provisions of this resolution, either by commission of a prohibited act, or by promotion or encouragement of a prohibited act as property owner, proprietor or manager of an establishment defined as a public place shall, upon conviction, be subject to penalties in accordance with the penalty as established by law for conviction of a misdemeanor. Each separate act in violation of the provisions of this resolution shall constitute a separate offense.

That all prior resolutions or parts thereof conflicting with the provisions of this resolution are hereby repealed or superseded.

Resolved this __ day of _____, 200_.

Board of County Commissioners [OR OTHER GOVERNING BODY]
_____ County, [STATE]