

**CHAPTER ELEVEN
RESOLUTION OF THE VERGENNES CITY COUNCIL
REGARDING ADOPTION OF A PUBLIC INDECENCY ORDINANCE**

WHEREAS, the Vergennes City Council, as legislative body for the City, is authorized to take those actions authorized by law to promote the public health, safety, and welfare of the City; and

WHEREAS, the City is further authorized under 24 V.S.A. § 2291 to regulate and abate activities deemed to constitute a public nuisance; and

WHEREAS, the City Council has considered whether the occurrence of certain activities involving sexual conduct and appearance in a state of nudity as set forth in the proposed Public nuisance; and

WHEREAS, the City Council has considered whether the occurrence of certain activities involving sexual conduct and appearance in a state of nudity as set forth in the proposed Public Indecency Ordinance attached hereby, (which conduct is referred to as “regulated conduct” in this resolution) are detrimental to the public health; and

WHEREAS, the City Council has considered the potential impact of the regulated conduct on the public health, safety, and welfare of the City if such activities occur on public property or on property which is open to the public; and

WHEREAS, the United States Supreme Court in Barnes v. Glenn Theatre, Inc., 111 S. Ct. 2456 (1991) has ruled that prohibition of the regulated conduct in public places does not offend the United States Constitution;

NOW THEREFORE, the Vergennes City Council hereby finds and declares that occurrence of the regulated conduct on public property and property open to the public in the City of Vergennes is detrimental to the health, safety, and welfare of the City and constitutes a public nuisance;

The City Council further declares that to protect and promote the public health, safety, and welfare of the City and prevent the occurrence of a public nuisance associated with the regulated conduct, adoption of a Public Indecency Ordinance in the form attached hereto as Exhibit A is necessary and appropriate.

~~Approved this 7th day of December, 1995~~

**CHAPTER ELEVEN
PUBLIC INDECENCY ORDINANCE**

The City Council of the City of Vergennes hereby ordains:

SECTION 1. AUTHORITY

This ordinance is enacted pursuant to the authority granted the City to promote the public health, safety, welfare, and convenience contained in 24 V.S.A. § 2291 and Section 11 of the Vergennes City Charter. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE

It is the purpose of this ordinance to regulate public indecency, including public nudity, which is deemed to be a public nuisance.

SECTION 3. DEFINITIONS

“Nudity” shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion of the nipple and aureole, or the depiction of covered male genitals in a discernibly turgid state.

SECTION 4. PUBLIC INDECENCY

1. No person shall knowingly or intentionally in a public place:
 - a. engage in sexual intercourse;
 - b. appear in a state of nudity;
 - c. fondle his/her genitals; or
 - d. fondle the genitals of another person

2. No person who owns, leases, or controls property shall knowingly allow any person to engage in the conduct described in subparagraph A. above at any time such property is open to the public.

SECTION 5. ENFORCEMENT

Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Police officers of the City of Vergennes shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau and municipal complaint.

SECTION 6. WAIVER FEE

An issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense	\$50.00
Second Offense	\$125.00
Third Offense	\$200.00
Forth Offense	\$275.00
Fifth and subsequent offenses	\$350.00

Offenses shall be counted on a calendar year basis.

SECTION 7. CIVIL PENALTIES

An issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First Offense	\$100.00
Second Offense	\$200.00
Third Offense	\$300.00
Forth Offense	\$400.00
Fifth and subsequent offenses	\$500.00

Offenses shall be counted on a calendar year basis.

SECTION 8. OTHER RELIEF

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the City Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief or to pursue any other remedy authorized by law.

~~Adopted at Vergennes, Vermont this 7th day of December, 1995 and to be effective upon adoption.~~