

ORDINANCE NO. C-25-07

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SUBSECTION 5-28 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED "LOCATION OF ESTABLISHMENTS PERMITTING PARTIAL NUDITY", AND SUBSECTION 5-28.1 ENTITLED "NUDITY, SEXUAL CONDUCT PROHIBITED", TO PROVIDE AN EXCEPTION FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS THAT ARE ACCESSORY OR ANCILLARY USES TO CLOTHING OPTIONAL HOTELS; PROVIDING FOR DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND REPEAL; PROVIDING FOR CODIFICATION AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, adopted ordinances regulating the location of and conduct in alcoholic beverage establishments that permit partial nudity codified in sections 5-28 and 5-28.1 of the Code of Ordinances of the City of Fort Lauderdale; and

WHEREAS, the aforementioned regulations further the substantial governmental interest of combating the negative secondary effects of alcohol beverage establishments that permit partial nudity, specifically controlling the deleterious effects of these types of businesses on adjacent properties, preventing unlawful and unhealthy sexual activities, including prostitution and sexual liaison or sexual conduct of a casual nature, concern over sexually transmitted diseases as a legitimate health concern, and prevention of sexual contact between patrons and employees; and

WHEREAS, Section 800.03, Florida Statutes, makes unlawful the exposure of sexual organs in specific contexts while recognizing that an individual who is merely naked at any place provided or set apart for that purpose is not in violation of the statute; and

WHEREAS, nudists and naturists practice non-sexual social nudity in places provided for or set apart for such purposes; and

WHEREAS, owners and operators of hotels that provide accommodation to the nudists and naturists market have expressed a desire to sell and serve alcoholic beverages to nude and partially nude patrons and guests on hotel premises; and

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WHEREAS, the City Commission of the City of Fort Lauderdale, Florida desires to amend provisions to Sections 5-28 and 5-28.1 of the Code of Ordinances of the City of Fort Lauderdale that regulate alcoholic beverage establishments that permit partial nudity to provide an exception for alcoholic beverage establishments that are accessory or ancillary uses to clothing optional hotels;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 5-28, entitled "Location of establishments permitting partial nudity", of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

Sec. 5-28. – Location of establishments permitting partial nudity.

(a) For purposes of this section:

(1) *Alcoholic beverage establishment* means any establishment located in the city at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises.

(2) *Clothing Optional Hotel* means a hotel, as defined in Section 47-35.1 of the Unified Land Development Regulations, containing 200 or more sleeping rooms and permits partial nudity on premises within access-controlled areas.

~~(2)~~(3) *Partial nudity* means the showing of the human male or female buttocks or any portion thereof with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof; or the depiction of covered male genitals in a discernably turgid state.

(b) Except as provided in Sec. 5-28(f), no ~~No~~ alcoholic beverage establishment permitting partial nudity is permitted on a parcel of land located:

(1) Within seven hundred fifty (750) feet of any parcel of land which is either zoned or used for residential uses or purposes;

(2) Within seven hundred fifty (750) feet of any parcel of land upon which a church, school, public park or playground is located; or

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(3) Within seven hundred fifty (750) feet of any parcel of land upon which another alcoholic beverage establishment permitting nudity is located.

An alcoholic beverage establishment permits partial nudity under this section if any person maintaining, owning, managing or operating such establishment knowingly, or with reason to know, suffers or permits nudity to occur on the premises of such establishment.

(c) For purposes of this section, distance shall be by airline measurement from property line to property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(d) It shall be unlawful for any person maintaining, owning, managing or operating an alcoholic beverage establishment to knowingly, or with reason to know, suffer or permit partial nudity to occur on the premises of any alcoholic beverage establishment in violation of subsection (b) above.

(e) It shall be unlawful for any person, while on the premises of an alcoholic beverage establishment to expose to public view any portion of his or her anatomy defined herein as nudity in violation of subsection (b) above.

(f) An alcoholic beverage establishment that is an accessory or ancillary use to a clothing optional hotel is not subject to the limitations of subsection (b) above provided the hotel meets the following criteria:

(1) The entire property of the hotel is fully enclosed and gated to the extent permissible by and in compliance with the City Fort Lauderdale, Florida, Unified Land Development Regulations; and

(2) Access to the hotel is only granted to patrons and guests of the hotel whose reservation and age are verified by security; and

(3) The hotel contains an on-site food establishment for guests; and

(4) Hotel staff are fully clothed at all times; and

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(5) Adults 21 years and older are the only patrons and guests permitted on the premises of the hotel; and

(6) Partial nudity is only permitted at the pool areas that are fully enclosed and has controlled access; and

(7) Any alcohol sold may only be sold or served from a fully enclosed bar area located in the pool area; and

(8) No person outside the hotel facility will be able to observe any nudity or partial nudity of any hotel patron or guest; and

(9) The hotel must require each hotel guest or patron to sign a waiver acknowledging that they have been advised that the hotel allows nudity at its pools. Such waiver is a prerequisite for entry and any patron or guest that refuses to sign the waiver shall immediately be informed that they are not permitted on the hotel property. All waivers must be presented to the patron or guest in an area where there is no nudity and where nudity cannot be viewed.

SECTION 2. That Section 5-28.1 entitled “Nudity, sexual conduct prohibited”, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

Sec. 5-28.1. – Nudity, sexual conduct prohibited.

(a) For purposes of this section:

Alcoholic beverage establishment means any establishment located in the city at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises.

Clothing Optional Hotel means a hotel, as defined in Section 47-35.1 of the Unified Land Development Regulations, containing 200 or more sleeping rooms and permits partial nudity on premises within access-controlled areas.

Employee shall mean a person who works or performs or dances partially nude in an alcoholic beverage establishment, irrespective of whether the person is paid a salary or wage by the owner, manager, or operator of said establishment or accepts tips or splits tips with the owner, manager or operator of said establishment. This includes a person who pays any form of

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consideration to an owner, manager or operator of an establishment for the privilege of working, performing or dancing or appearing partially nude within any establishment.

Independent contractor shall mean any person who, pursuant to a formal or informal agreement, a written or verbal agreement, works, performs, dances or appears partially nude in an alcoholic beverage establishment.

Partial nudity means the showing of the human male or female buttocks or any portion thereof with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof; or the depiction of covered male genitals in a discernibly turgid state. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(b) No person shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or any portion of the foregoing specified anatomical areas, or any simulation thereof in any establishment at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises except in the confines of a Clothing Optional Hotel.

(c) No female person shall expose to public view any portion of her breasts encompassed within an area falling below the horizontal line one would have to draw to intersect a point above the top of the areola, or any portion of the areola, or any simulation thereof in any establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises except in the confines of a Clothing Optional Hotel. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, but shall not include any portion of the cleavage of the human exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(d) No person maintaining, owning, or operating an establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises that is not a Clothing Optional Hotel shall suffer or permit any person to expose to public view the anus, anal cleft or cleavage, or any portion of the foregoing specified anatomical areas, or simulation thereof, within any establishment at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises.

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(e) No person maintaining, owning or operating an establishment at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises that is not a Clothing Optional Hotel shall suffer or permit any female person to expose to public view any portion of her breasts encompassed within an area fall below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, or any portion of the areola, or any simulation thereof, within any establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises. This prohibition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

(f) No person shall engage in and no person maintaining, owning, or operating an establishment at which alcoholic beverages, beer or wine are offered for sale for consumption on the premises, including a Clothing Optional Hotel, shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act which is prohibited by law, touching, caressing or fondling of the breasts, buttocks or any portion thereof, anus or genitals or the simulation thereof, within any establishment at which alcoholic beverages, beer or wine are sold or offered for sale for consumption on the premises.

(g) It shall be unlawful to suffer, permit or display partial nudity in any alcoholic beverage establishment, as defined above in section ~~5-28(a)~~ 5-28.1(a), excluding Clothing Optional Hotels, unless the following is provided by the establishment:

(1) It shall have a stage provided for the display or exposure of partial nudity, or any simulation thereof, as defined in section ~~5-28(a)~~ 5-28.1(a), by an employee or independent contractor to a person other than another employee or independent contractor consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and

(2) The exposure by an employee or independent contractor of partial nudity, as defined in section ~~5-28(a)~~ 5-28.1(a) or any simulation thereof, to public view shall be restricted to the stage required in (1) above.

(h) It shall be unlawful for any nonemployee or patron to be or remain within a distance of less than four (4) feet from any partially nude employee or independent contractor, while within any alcoholic beverage establishment.

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(i) No employee or independent contractor, while partially nude, shall suffer, permit or allow any nonemployee or patron to be within a distance of four (4) feet of said employee or independent contractor, while within any alcoholic beverage establishment. It shall be a violation of this section for an employee or independent contractor while partially nude to fail or refuse to withdraw from or move away from a nonemployee or patron to a distance of at least four (4) feet.

(j) No manager, operator, owner or any other person in charge of an alcoholic beverage establishment, shall suffer, permit or allow an employee or independent contractor, while partially nude, to be within four (4) feet of any nonemployee or patron while within any alcoholic beverage establishment.

(k) No manager, operator, owner or any other person in charge of an alcoholic beverage establishment, shall suffer, permit or allow any nonemployee or patron to be within a distance of four (4) feet of any employee or independent contractor, while partially nude, while within any alcoholic beverage establishment, notwithstanding a partially nude guest or patron may be within a distance of four (4) feet of any fully clothed employee or independent contractor for the purpose of exchanging services customarily associated with a hotel.

(l) Clothing optional hotels may only offer alcoholic beverages, beer or wine for sale or for consumption on the premises if the hotel meets the following criteria:

(1) The entire property of the hotel is fully enclosed and gated to the extent permissible by and in compliance with the City Fort Lauderdale, Florida, Unified Land Development Regulations; and

(2) Access to the hotel is only granted to patrons and guests of the hotel whose reservation and age are verified by security; and

(3) The hotel contains an on-site food establishment for guests; and

(4) Hotel staff are fully clothed at all times; and

(5) Adults 21 years and older are the only patrons and guests permitted on the premises of the hotel; and

(6) Partial nudity is only permitted at the pool areas that are fully enclosed and have controlled access; and

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(7) Any alcohol sold may only be sold or served from a fully enclosed bar area located in the pool area; and

(8) No person outside the hotel facility will be able to observe any nudity or partial nudity of any hotel patron or guest.

(9) The hotel must require each hotel guest or patron to sign a waiver acknowledging that they have been advised that the hotel allows nudity at its pools. Such waiver is a prerequisite for entry and any patron or guest that refuses to sign the waiver shall immediately be informed that they are not permitted on the hotel property. All waivers must be presented to the patron or guest in an area where there is no nudity and where nudity cannot be viewed.

(m) Displaying a sign or advertisement by any alcoholic beverage establishment located within the premises of a clothing-optional hotel indicating, advertising, promoting or otherwise suggesting to the public that such alcoholic beverage establishment is a place at which sexual conduct and activity is permissible shall be evidence that such establishment is engaged in conduct in violation of this code section.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or if any portion of this Ordinance is found for any reason to be inoperative, invalid, void or unconstitutional by any court of competent jurisdiction, such portion of the Ordinance shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of any remaining portions hereof.

SECTION 4. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinance; and that sections of this Ordinance can be re-numbered or re-lettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered or re-lettered and typographical errors that do not affect the intent can be corrected with the authorization of the City Manager, or his designee, without the need for a public hearing.

SECTION 5. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

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SECTION 6. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 7. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this 18th day of February, 2025.

PASSED SECOND READING this _____ day of _____, 2025.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMON

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