

ORDINANCE NO. 2023-024

AN ORDINANCE AMENDING TITLE 9 OF THE CASTLE ROCK MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 9.06 ENTITLED “OFFENSES RELATED TO MORALS”

WHEREAS, at its August 15, 2023, regular meeting, the Town Council of the Town of Castle Rock (the “Town”) directed Town staff to address the Town Code, State laws and related Town policies governing the issue of public nudity, public indecency and indecent/obscene exposure in public places; and

WHEREAS, at the September 19, 2023, regular meeting of the Town Council, Town staff recommended that Town Council adopt an ordinance amending Title 9 of the Town Code to make public indecency, indecent exposure, and public nudity municipal-level offenses that may be prosecuted in the Town Municipal Court; and

WHEREAS, the Town Council voted unanimously to accept the recommendation and to direct Town staff to prepare an ordinance for consideration at the October 3, 2023, regular meeting of the Town Council.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Amendment. Title 9 of the Castle Rock Municipal Code is amended by the addition of a new Chapter 9.06, which Chapter reads as follows:

Chapter 9.06 – Offenses Related to Morals

Section 9.06.010 – Public Indecency.

- A. It is unlawful for any person to commit public indecency. A person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:
1. An act of sexual intercourse; or
 2. A lewd exposure of an intimate part of the body, not including the genitals, done with intent to arouse or to satisfy the sexual desire of any person; or
 3. A lewd fondling or caress of the body of another person; or
 4. A knowing exposure of the person's genitals to the view of a person under circumstances in which such conduct is likely to cause affront or alarm to the other person.

- B. For purposes of this section, “intimate part” means the external genitalia or the perineum or the anus or the buttocks or the pubes or the breast of any person.

Section 9.06.020 – Indecent Exposure.

- A. It is unlawful for any person to commit indecent exposure. A person commits indecent exposure:
 - 1. If the person knowingly exposes such person’s genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person with the intent to arouse or to satisfy the sexual desire of any person;
 - 2. If the person knowingly performs an act of masturbation in a manner which exposes the act to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.
- B. For purposes of this section, “masturbation” means the real or simulated touching, rubbing, or otherwise stimulating of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.

Section 9.06.030. - Public nudity.

- A. It is unlawful for any person to, knowingly or intentionally, appear in a state of nudity in a public place.
- B. For purposes of this section, "state of nudity" means the showing of the post-pubertal human genitals, pubic region, buttocks, 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 post-pubertal human genitals, pubic region, buttocks, or anus.
- C. For purposes of this section, “public place” means a place, regardless of ownership, to which the public or a substantial number of the public has access, including all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including 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.
- D. The prohibition in subsection A does not extend to:
 - 1. Any person undergoing bona fide emergency medical examinations or treatment;
 - 2. Any person located in a dressing room, shower room, bathroom, or other enclosed area not visible from any public place, specifically designated for changing clothes or in which nudity is expressly permitted; or

3. Any person participating in a legally protected speech or religious activity in a public place within any theater, concert hall, museum, school or other establishment that is serving as a performance or worship venue, provided the person's nudity is an inherent part of such speech or religious activity.

Section 2. Severability. If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. Safety Clause. The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this ___ day of _____, 2023, by a vote of ___ for and ___ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ___ day of _____, 2023, by the Town Council of the Town of Castle Rock by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

David L. Corliss, Town Manager