

Handwritten: HANCO AT MTB ORDINANCE # 22

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I am writing to encourage the Commissioners to reconsider your proposed revision to Chapter 49, section 2 (49-2). While Mister Bethel and others have legitimate complaints about people being out in public completely nude, that conduct is already proscribed. Preventing women from being in the street with their breasts painted cannot have any effect on those men and women who walk the streets naked.

My primary objection to 49-2 is that legally it is vague, overbroad, discriminatory and generally unenforceable. Take a walk along any of our beaches and look at modern bathing suits, look in the window of the Bikini Village on Duval Street, or look at the actress pictures from the Oscars, you will see that many of those outfits would be illegal in Key West. 42-9(a) defines nude as "the exposure of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the exposure of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple." Certainly we have all seen portions of women's buttocks at the beach, and "cleavage" in even the most elegant outfits.

This ordinance is vague and overbroad in that police officers can arrest almost any woman on the beach at their total discretion. Ordinances are public policies which specify which behavior is within our community standards and which is not, not to be a tool used by any police officer as an excuse to arrest individuals who are not behaving any differently than their peers.

42-9 discriminates against women, as it treats them differently by than men. While there are cities which prohibit lewdness but not nudity, I think Mister Bethel would be offended. Some cities have had laws similar to ours struck down as unconstitutional, such as New York and Washington. This city has in the past defended this ordinance because similar laws which discriminate have been upheld elsewhere. Yes, there was a court in Indiana which held that the government had an important interest in suppressing women. There have also been courts which upheld slavery, denied women the right to vote and own property, and which upheld racial segregation.

Key West should not hold itself as a stronghold for discrimination. This commission should not vote that women must know their inferior place in our society and will be imprisoned for demanding the rights that men have. This city's response to the nude beach supporters was an embarrassment.

I recommend amending 49-2 by changing the second paragraph of 49-2(a) to read:

Nude or nudity means the exposure of the human genitals, anus, or pubic area with less than a fully opaque covering.

The proposed change in 49-2 is not reasonably tailored to address the problem. The police need a reasonable law which they can enforce. Changing the body painting exception in 49-2 does not fix the problem. Amending 49-2 so that it meets constitutional muster, and falls within the scope of our police officers' oath to defend the constitution, is the course the commission should follow. Only by removing the gender discrimination in 49-2 can this commission claim to support that we are one human family.

John Walsh  
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 City