

MISCELLANEOUS

**62.000 PUBLIC NUDITY ORDINANCE
ORDINANCE NO. 175**

Adopted: March 12, 2001
Effective: April 18, 2001

An Ordinance which defines and prohibits nudity, provides for exceptions, and penalties for violations.

A. Purpose

This Ordinance is intended to prohibit nudity in public places pursuant to the township ordinance power conferred by Public Act 246 of 1945 & Public Act 35 of 1947 and to establish a definition of nudity pursuant to 1980 AACRS R436.1409. This Ordinance is not intended to exclude sexually oriented businesses, as defined by the Cooper Charter Township Zoning Ordinance, from opening and operating in Cooper Charter Township, to deny adults access to sexually oriented businesses and their products, to deny sexually oriented businesses access to their intended markets, to implicate ordinary public behavior, or to offend the guarantees afforded by the First Amendment to the United States Constitution. Neither is it the intent of this Ordinance to legitimize activities prohibited by the Cooper Charter Township ordinance, state or federal law.

B. Definitions

Public Nudity means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being Section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.
4. Any public display of an individual's genitals or anus with less than a fully opaque covering, or a female individual's breast, which occurs as part of the regular curriculum of any educational institution that is funded, chartered, or recognized by the State of Michigan.

Public Place means any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Person means an individual, sole proprietorship, partnership, corporation, limited liability company, business organization or association.

C. Prohibited Conduct

No person shall engage in public nudity, nor shall any owner, officer, or person in charge of or in control of the premises of any business establishment knowingly permit persons to engage in public nudity.

D. Aiding and Abetting Prohibited

No person shall knowingly assist, aid, abet, or encourage any other person to engage in public nudity.

E. Exceptions

Public nudity pursuant to a regular curriculum at an educational institution in any way funded, chartered, or recognized by the State of Michigan shall not be subject to the prohibitions of this Ordinance.

F. Nuisance Per Se

A violation of this Ordinance is deemed to be a nuisance per se. Nothing in this Ordinance shall prohibit the Township or any interested party from seeking such other relief as may be permitted in law or in equity regarding the existence of a nuisance.

G. Severability

In any article, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of this Ordinance following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

H. Penalties

Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction as provided in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each violation shall constitute a separate offense.

I. Effective Date

This Ordinance took effect on April 18, 2001. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.