

TOWNSHIP OF ODESSA  
ORDINANCE TO REGULATE PUBLIC NUDITY  
ORDINANCE NO. 12 of 1999.

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

THE TOWNSHIP OF ODESSA ORDAINS:

Section 1. Purpose.

This Ordinance is intended to prohibit nudity in public places pursuant to the township ordinance power conferred by MSA 5.45(1), MCL 41.181, and to establish a definition of nudity pursuant to 1980 AACS R436.1409. This Ordinance is not intended to exclude sexually oriented businesses as defined by any valid county or township zoning ordinance, from opening and operating in Odessa 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.

Section 2. Definitions.

- A. 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.
- B. 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 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.
- C. Person means an individual, sole proprietorship, partnership, corporation, limited

liability company, business organization or association.

Section 3. 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.

Section 4. Aiding and Abetting Prohibited.

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

Section 5. Exceptions.

- A. Public nudity occurring within an enclosed area or structure on a premises in accordance with and benefitted by a valid special use permit to operate a sexually oriented business issued by Ionia County under a valid county ordinance, and which premises is not licensed by the State of Michigan to sell or allow the consumption of alcoholic beverages, shall not be subject to the prohibitions of this Ordinance which prohibit exposure of a female individual's breast or breasts, but shall be subject to the prohibitions of this Ordinance relating to exposure of an individual's genitals or anus.
- B. 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.
- C. Public nudity occurring within an enclosed area or structure on a premises not requiring a special use permit to operate a sexually oriented business due to its status as a valid nonconforming use pursuant to those sections of any Ionia County Zoning Ordinance relating to the regulation of sexually oriented businesses shall not be subject to the prohibitions of this Ordinance which prohibit exposure of a female individual's breast or breasts, but shall be subject to the prohibitions of this Ordinance relating to the exposure of an individual's genitals or anus.

Section 6. 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.

Section 7. Severability.

If any article, section, 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.

Section 8. 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 \$500.00 and the payment of the actual costs of enforcement by Odessa Township, including attorney fees. Each day this Ordinance is violated shall be considered as a separate violation. Each violation shall constitute a separate offense.

Section 9. Effective Date.

This Ordinance shall be published as required by law and shall become effective thirty (30) days after publication.

Date of Publication: 12-15-99.

Lisa K. Williams  
Odessa Township Clerk

*Lisa K. Williams*

EFFECTIVE DATE

This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Members: Cobb, Williams, Rohrbaugh, Pessehndy Buche

NAYS: Members: none.

ORDINANCE DECLARED ADOPTED

Lisa K. Williams  
Lisa K. Williams, Odessa Township Clerk

12-6-99  
Date

STATE OF MICHIGAN }  
                                  }SS.  
COUNTY OF IONIA }

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Odessa at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Lisa K. Williams  
Lisa K. Williams, Odessa Township Clerk

                                    
Date