

CHAPTER 14 PUBLIC NUDITY

14.1 Purpose:

This section is intended to prohibit nudity in public places pursuant to the Village ordinance power conferred by MSA 5.1285 (aa) 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 the Village of Central Lake Zoning Ordinance from opening and operating in the Village of Central Lake, 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 the intent of this ordinance to legitimize activities prohibited by the Village of Central Lake ordinance, state or federal law.

4.2 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, 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.
- (c) "Person" means an individual, sole proprietorship, partnership, corporation, limited liability company or association.

14.3 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 permit persons to engage in public nudity.

14.4 Aiding and Abetting Prohibited:

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

14.5 Exceptions:

- (a) Public nudity occurring within an enclosed area or structure in accordance with and on a premises benefited by a special use permit to operate a sexually oriented business issued pursuant to the Village of Central Lake Zoning 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 breasts but shall be subject to the prohibition 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.

14.6 Nuisance Per Se:

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

14.7 Penalties:

Any person who shall violate any provision of this ordinance shall be responsible for a municipal civil infraction as defined 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 Dollars (\$500.00). Each day this ordinance is violated shall be considered as a separate violation. Any action taken under this section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

14.8 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 Village intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Village 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.