

**BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN**

**ORDINANCE TO REGULATE PUBLIC NUDITY
ORDINANCE NO. 12-00 of 2000**

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

THE TOWNSHIP OF BEAR CREEK ORDAINS:

SECTION 1 - PURPOSE

This Ordinance is intended to prohibit nudity in public places pursuant to the township ordinance power conferred by MCL 41.181, and to establish a definition of nudity in accordance with that statute. This Ordinance is not intended to exclude sexually oriented businesses, as defined by any interim or permanent zoning ordinance in effect for Bear Creek Township, from opening and operating in Bear Creek 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 of the United States Constitution. Neither is it the intent of this Ordinance to legitimize activities prohibited by Bear Creek Township ordinance, state or federal law.

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 women'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, business, organization, association, or other entity.

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 benefited by a valid special use permit to operate a sexually oriented business issued by Bear Creek Township, 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.

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

- A. This Ordinance shall be enforced by such persons who shall be designated by Resolution of the Township Board.

- B. A violation of this Ordinance is a municipal civil infraction, for which a citation may be issued. The fine for such a municipal civil infraction shall not be more than \$500.00, in addition to all other costs, damages, expenses, and other fees and remedies provided or allowed by law. Each day that a violation occurs shall be considered a separate violation.
- C. The issuance of a citation for a municipal civil infraction shall not in any way limit the Township from seeking enforcement of this Ordinance in any other manner, including, but not limited to an action for temporary and permanent injunctive relief and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with the enforcement of this Ordinance.

SECTION 9 - EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication in the manner provided by law.

SECTION 10 - REPEALER

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

CLERK'S CERTIFICATION

I hereby certify this Ordinance was adopted by the Bear Creek Township Board at a regular meeting held on Feb 2, 2000, and that the vote was as follows:

FOR: Sumner, VanHorn, Mays, Foseter & Keiser

AGAINST: 0

I further certify this Ordinance, or a summary thereof, was published in the Petoskey News-Review on _____, 2000.

Judy Mays
Bear Creek Township Clerk

**BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN**

Summary of the Ordinance to Regulate Public Nudity, No. 12 - 00, adopted by the Bear Creek Township Board of Trustees at its regular meeting on Feb. 2, 2000.

SECTION 1 - PURPOSE. The purpose of this ordinance is to prohibit nudity in public places in accordance with the township ordinance power conferred by Michigan Compiled Law 41.181.

SECTION 2 - DEFINITIONS. Defines various terms used in the ordinance.

SECTION 3 - PROHIBITED CONDUCT. Prohibits persons from engaging in public nudity and persons in charge of business establishments from permitting persons to engage in public nudity.

SECTION 4 - AIDING AND ABETTING PROHIBITED. Prohibits persons from aiding, abetting, or encouraging others to engage in public nudity.

SECTION 5 - EXCEPTIONS. Provides for certain exceptions to the ordinance.

SECTION 6 - NUISANCE PER SE. Provides that a violation of the ordinance is a Nuisance Per Se.

SECTION 7 - SEVERABILITY. Provides that if any portion of the ordinance is found to be invalid by a court, this shall not affect the validity of the remaining portions of the ordinance.

SECTION 8 - PENALTIES. Specifies penalties for violations of this ordinance. Penalties include a municipal civil infraction with a fine of not more than \$500.00 for each day that a violation occurs.

SECTION 9 - EFFECTIVE DATE. Provides this ordinance will take effect thirty (30) days after publication as provided by law.

SECTION 10 - REPEALER. Provides that all ordinances and parts of ordinances in conflict with this ordinance are repealed to the extent necessary to give full force and effect to this ordinance.

A true copy of the entire Ordinance To Regulate Public Nudity may be inspected or obtained at the Bear Creek Township Hall, 373 N. Division Rd., Petoskey, MI 49770, during regular business hours of 8:30 a.m. to 5:00 p.m., Monday thru Friday.

Judy Mays
Bear Creek Township Clerk