

## **ARTICLE 56**

### **SECTION 56.01            ORDINANCE TO REGULATE PUBLIC NUDITY**

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

THE TOWNSHIP OF FRUITLAND, MUSKEGON COUNTY, MICHIGAN, HEREBY ORDAINS:

#### **SECTION R 56.02        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 AACRS R436.1409. This Ordinance is not intended to exclude sexually oriented business from opening and operating in Fruitland Township, to deny adults access to sexually oriented businesses and their products, to deny sexually oriented business access to their intended markets, to implicate ordinary public behavior, to implicate material having serious literary, artistic, political, or scientific value, 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 Fruitland Township ordinance, state or federal law.

#### **SECTION R 56.03        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 an opaque covering, or a female person'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 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 622.673 of the Michigan Compiled Laws.
  4. A display of a person's genitals or anus, or of a female person's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.
- 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.

**SECTION R 56.04 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.

**SECTION R 56.05 AIDING AND ABETTING PROHIBITED**

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

**SECTION R 56.06 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 R 56.07 SEVERABILITY**

If 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 R 56.08 PENALTIES**

Any person violating this Ordinance shall be subject to a misdemeanor, may face fines up to not more than Five Hundred and 00/100 dollars (\$500.00), or imprisonment of up to not more than (90) days or both for each offense. Each of violation shall constitute a separate offense.

**SECTION R 56.09 EFFECTIVE DATE**

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

FRUITLAND TOWNSHIP

By \_\_\_\_\_  
Janell Beard, Clerk

Adopted: April 16, 2001  
Published: April 30, 2001  
Effective: May 30, 2001

Amended: April 18, 2005  
Published: April 24, 2005  
Effective: May 01, 2005