

ARTICLE 10

PROVISIONS REGARDING PUBLIC NUDITY

1001 PURPOSE

The purpose of this Article is 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 Article is not intended to exclude sexually oriented business from opening and operating in Whitehall 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 Article to legitimize activities prohibited by Whitehall Township ordinance, state or federal law.

1002 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 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 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 622.673 of the Michigan Compiled Laws.

4. Any 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.

1003 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.

1004 AIDING AND ABETTING PROHIBITED

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