

CHAPTER 3
PUBLIC NUILITY¹

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7-3-1 **INTENT**

It is the intent of this Chapter 3 to protect and preserve the health, safety, welfare and morals of the citizens of the Village by prohibiting a person from intentionally or recklessly appearing or being nude, or causing another person to appear to be nude, in a public place and in other places which may reasonably be expected to be observed by the public within the Village except as herein provided.

7-3-2 **DEFINITIONS**

The following words, whether capitalized or not, shall have the meanings ascribed to them below, unless otherwise indicated by the context:

BREAST: A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola and (ii) contains at least the nipple and the areola and one-fourth of the outside surface area of such gland.

BUTTOCKS: The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two imaginary straight lines running parallel to the ground when a Person is standing, the first or top such line being one-half inch below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being one-half inch above the lowest point of the curvature of the fleshly protuberance (sometimes referred to as the gluteal fold), and between two imaginary straight lines, one on each side of the body (the "outside lines"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above-described portion of the human body that is between either (i) the left outside perpendicular line and the left outside perpendicular line or (ii) the right inside perpendicular line and the right outside perpendicular line. For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus (i) that is perpendicular to the ground and to the

¹ Ordinance 1998-99-634

horizontal lines described above and (ii) that is one-third of the distance from the anus to the right outside line. (The above description can *generally* be described as covering one-third of the buttocks centered over the cleavage for the length of the cleavage.)

ENTITY: Any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company or other for profit and/or not for profit organization.

NUDE: Any person insufficiently clothed in any manner so that any of the following body parts are not entirely covered with a fully opaque covering:

1. The male or female genitals, or
2. The male or female pubic area, or
3. The female breast, or
4. The buttocks. Attire which is insufficient to comply with this requirement includes, but is not limited to, G-Strings, T-Backs, and thongs.

Body paint, body dyes, tattoos, liquid latex whether wet or dried, and similar substances shall not be considered opaque covering. Each female person may determine which one-fourth of her breast surface area (see definition of breast) contiguous to and containing the nipple and the areola is to be covered.

PERSON: Any live human being aged 10 years of age or older.

PLACES PROVIDED OR SET APART FOR NUDITY: Shall mean enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for the promotion of business or is otherwise commercially exploited.

PUBLIC PLACE: Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit and whether open to the public at large or where entrance is limited by cover charge or membership requirement); bottle clubs; hotels; motels; restaurants; night clubs; country clubs; cabarets; meeting facilities utilized by any religious, social, fraternal or similar organization. A premises, or portion thereof such as a hotel room, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

7-3-3 **LEGISLATIVE FINDINGS**

In addition and supplemental to the findings and determinations contained in this Chapter 8, which are incorporated by reference into this Section 7-3-3, it is hereby found by the Village Board, acting in its legislative capacity for the purpose of regulating the conduct of appearing nude in

public places that the acts prohibited in Section 7-3-3 herein encourage or create the potential for criminal activity, that actual and simulated nudity and sexual conduct, begets and has the potential for begetting undesirable and unlawful behavior; that sexual, lewd, lascivious and salacious conduct among patrons and employees within establishments results in violation of law and creates dangers to the health, safety, welfare and morals of the public and those who engage in such conduct.

7-3-4 **NUDITY PROHIBITED IN PUBLIC PLACES**

It shall be unlawful for any person to knowingly, intentionally or recklessly appear, or cause another person to appear, nude in a public place or in any other place which is readily visible to the public, except as provided in Section 7-3-5 herein. It shall also be unlawful for any person or entity maintaining, owning or operating any public place establishment to encourage, suffer or allow any person to appear nude in such public place, except as provided in Section 7-3-5 herein.

7-3-5 **EXEMPTIONS**

The prohibitions in Section 7-3-4 herein shall not apply:

1. When a person appears nude in a place provided or set apart for nudity provided (i) such person is nude for the sole purpose of performing the legal function(s) that is customarily intended to be performed within such place provided or set apart for nudity and (ii) such person is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity, or;
2. When the conduct of being nude cannot legally be prohibited by this Chapter 3 (i) because it constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a mere guise or pretense utilized to exploit the conduct of being nude for profit or commercial gain and as such is protected by the United States or Illinois Constitution or (ii) because it is otherwise protected by the United States or Illinois Constitution.
3. A mother breast feeding her baby in any location, public or private, where the mother is otherwise authorized to be, irrespective of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.

7-3-6 **ENFORCEMENT AND PENALTIES**

Any person or entity violating any of the provisions of this Chapter 3 shall be fined not less than \$300 nor more than \$1,000 per offense plus the cost of prosecution incurred by the Village including reasonable attorney fees. Each incident or separate occurrence of an act that violates this Chapter 3 shall be deemed a separate offense. Continual or repeated violations of this Chapter 3 shall constitute a public nuisance and the Village may initiate proceedings to abate any such nuisance.