

**AN ORDINANCE PROHIBITING PUBLIC INDECENCY AND PROVIDING A
CRIMINAL PENALTY**

THE COUNTY BOARD OF BENTON COUNTY ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to prohibit public indecency in order to deter criminal activity, to promote societal order and public health, and to protect children.

Section 2. Findings. The Benton County Board of Commissioners makes the following findings regarding the need to prohibit public indecency:

- A. Public indecency can increase the incidence of criminal activity, including but not limited to prostitution, disorderly conduct and sexual assault.
- B. Public indecency can expose children to an unhealthy and nurtureless environment.
- C. Public indecency can present health concerns in places of public accommodation and other public settings.
- D. Public indecency can have a potentially negative impact on the value and marketability of property.

Section 3. Definitions. The following words and terms when used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

- A. "Nudity" means:
 - (1) The appearance of a human bare buttock, anus, male genitals, female genitals, female breast; or,
 - (2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.
- B. "Person" means a natural person twelve (12) years of age or older, including employees or agents of a public accommodation.

- C. "Public place" means 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 a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. A public place shall not include enclosed single sex public restrooms, enclosed single sex motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospital 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; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the state; a college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation or an accredited private college.

Section 4. Public Indecency Prohibited. A person who knowingly or intentionally in a public setting or place:

- A. appears in a state of nudity;
- B. fondles the genitals of himself or herself, or
- C. fondles the genitals of another person;

commits public indecency and is guilty of a misdemeanor under Minnesota law and upon conviction thereof, shall be punished by a fine of up to \$1,000 or by imprisonment for up to 90 days; or both.

Section 5. Exclusion. The provisions of Section 4.A of this ordinance shall not apply to:

- A. any theatrical production performed in a theater, by a professional or amateur theatrical or musical company, which has serious artistic merit; or,

B. a woman breastfeeding a child.

Section 6. Severability. If any section, sentence, or clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The County Board hereby declares that it would have adopted the section, sentence, clause, or phrase of this ordinance irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid.

Section 7. Application. Section 4 of the ordinance shall apply to any and all unincorporated areas of Benton County.

Section 8. Effective Date. This ordinance shall be effective immediately upon its passage and publication.

ADOPTED this 3rd day of July, 2001, by the Benton County Board of Commissioners.

By: *Dorcas Grandy*
Chair
Benton County Board of Commissioners

ATTEST:

R. H. Gruch
Clerk

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OFFICE OF
BENTON COUNTY RECORDER
BENTON COUNTY, MN
CERTIFIED TO BE FILED
AND/OR RECORDED ON

JUL 10 10 25 AM '01

MARILYN J. NOVAK
COUNTY RECORDER

BY *BW* DEPUTY