

PUBLIC INDECENCY ORDINANCE

SECTION 1. PURPOSE AND AUTHORITY

To prohibit certain acts of commercial exploitation of human sexuality within the Town of Dexter in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases, and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional enforcement power to protect societal order, morality, and physical and emotional health in public places without infringing on protected First Amendment rights.

This ordinance is enacted pursuant to municipal home rule authority, Title 30-A M.R.S.A. 3001.

SECTION 2. DEFINITIONS

For the purposes of this Ordinance, the following definitions apply:

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Public Indecency means the knowing or intentional commission of a sexual act, sexual contact or nudity in a public place.

Public Place means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government owned facilities, and the lobbies, hallways, and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.

Sexual Act means any act of sexual gratification between two or more persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegations or proof of penetration.

Sexual Contact means any touching of the genitals, directly or through clothing, other than would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

SECTION 3. PUBLIC INDECENCY PROHIBITED

Engaging in public indecency in return for pecuniary benefit is prohibited.

Engaging in or encouraging or permitting another person to engage in an act or acts of public indecency in return for pecuniary benefit by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occurs is also prohibited.

SECTION 4. NURSING WOMEN

Notwithstanding any Town ordinance to the contrary, no Town ordinance shall prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast-feeding in public or private.

SECTION 5. PENALTIES

The violation of this ordinance shall be punishable by a fine of five hundred dollars (\$500.00) for a first offense, one thousand dollars (\$1,000.00) for a second offense, and two thousand dollars (\$2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate

offense. In addition to such penalties, the town may enjoin or abate any violation of this ordinance by appropriate action, and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees, and reasonable investigative costs.

SECTION 6. SEVERABILITY

If any section, phrase, sentence, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other section, phrase, sentence, or portion thereof.