

PUBLIC INDECENCY ORDINANCE

of the

Town of Sebec, Maine

Section 1. PURPOSE

The two purposes of this ordinance are (1) to prohibit certain acts of commercial exploitation of human sexuality in commercial or business establishments within the Town of SEBEC 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 (2) to protect the health, safety, welfare, and morals of the community by using the government's recognized and traditional police power to protect societal order, morality and physical and emotional health without infringing on protected First Amendment rights.

Section 2. DEFINITIONS

For purposes of this section, the following definitions apply:

A. Sexual intercourse mean any penetration of the female sex organ by the male sex organ. Emission is not required.

B. Sexual act mean any act of sexual gratification between two 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 allegation or proof of penetration.

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

D. Nudity mean the showing of 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 showing of the covered male genitals in a discernibly turgid state.

E. 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, motel, public buildings and transportation terminals.

F. Public indecency means the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

G. Exploitation mean the act of exploiting for one's own gain or advantage or utilization of someone or something for purely selfish ends.

Section 3. PUBLIC INDENCEY PROHIBITED

A. Engaging public indecency is prohibited.

B. Encouraging or permitting another person or persons to engage in an act or acts of public indecency by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occur(s) is prohibited.

C. Commercial exploitation of the human body, male or female, child or adult, for any purpose for the profit is prohibited.

Section 4. PENALTIES

A. The violation of any provision of this Article shall be punished by a fine not less than one thousand dollars (\$1,000.00) nor more than two thousand dollars (\$2,000.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Article by appropriate action, including but not limited to revocation of any Town license for a premises or commercial or business establishment in which the public indecency occurs.

B. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorneys' fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 5. SEVERABILITY

If any section, phrase, sentence or portion of the Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.